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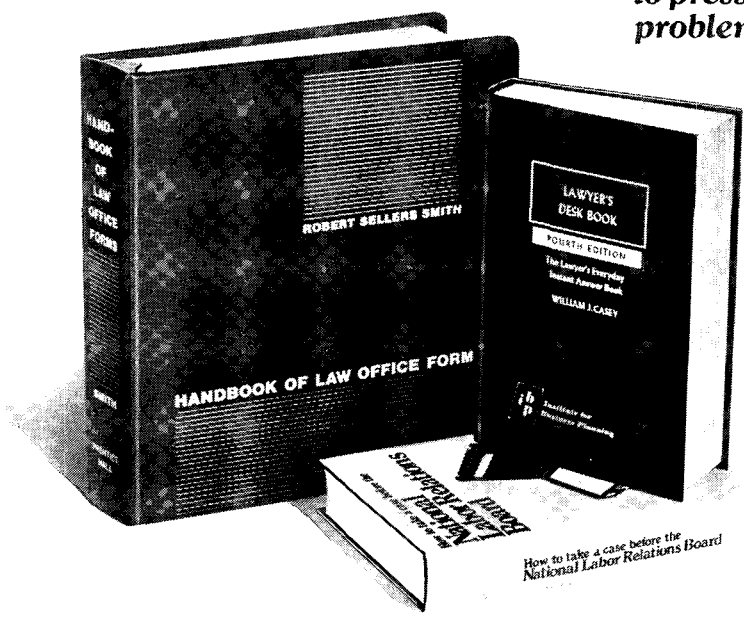

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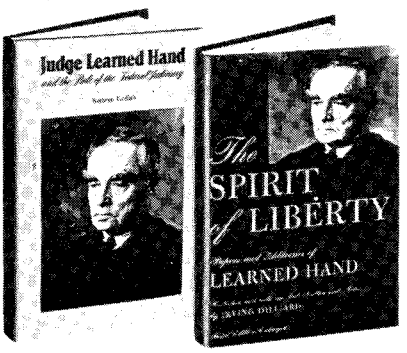

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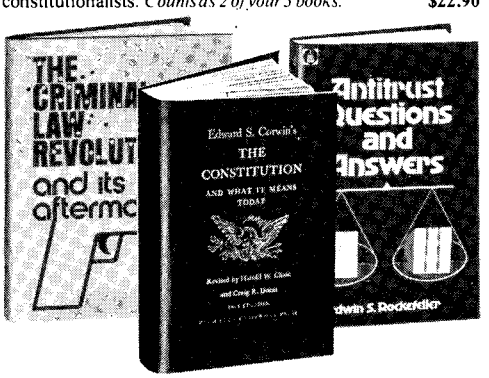

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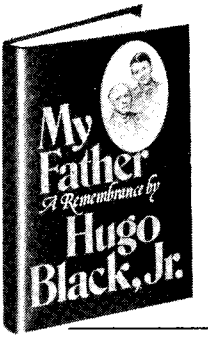

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Shriver: The Lightweight Label

by Colman McCarthy

When he declared his candidacy dead, and wafted to the after-life of Washington, where losers can, without fear, be put on hold by nobodies and ignored by waiters, Sargent Shriver was characteristically buoyant. At the wake for his campaign, he called it a "remarkable success." That was vintage Shriver: ever the mole, boring his way through piles of defeat and fatigue, and coming up to sun himself on whatever ray was left. It is one of the traits by which Shriver has endeared himself to so many of those who once worked for him. It is also the kind of behavior that has caused him to be dismissed as a lightweight by many reporters.

There were, at the outset, a few exceptions. Theo Lippman, Jr. of the *Baltimore Sun* and George Will, columnist, saw something more in Shriver. And Michael Novak has actually worked in both of Shriver's campaigns.

As one who cared about the Shriver candidacy—because I had cared about Shriver himself since about ten years ago when he invited me to Washington to work for him at the Office of Economic Opportunity—I was elated by these signs of regard as Shriver's 1976 campaign got under way. Someone else had perceived something that I had seen over the years and had been telling friends about all along. "Wait until he's President," I had said more than once to those who, unable to benefit large doubts, saw Shriver as little more than a well-plumed careerist looking to nest in any roost of Washington power.

The waiting goes on. Shriver fell after the Illinois primary in March, after he had stumbled into and staggered out of Iowa, New Hampshire, and Massachusetts. To reflect on the failure of Shriver is, first, to examine how elective campaigning can be a death rite to an inexperienced candidate who makes an early mistake or two in tactics and, second, to suggest that the Democrats are not so talent-rich a party that someone like Shriver can now be dismissed as obsolescent. He has lost out but that is no proof at all that he is worn out.

A candidate's basic strategy in political campaigning is to make it hard for the baying press to discover his

Colman McCarthy is on the editorial page staff of The Washington Post.

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weakness. The pack gets its thrills by sniffing for scents of naivete (Romney's "I was brainwashed"), or simplism (McGovern's $1,000 to every American), or stupidity (Reagan's $90-billion scheme). Romney, McGovern, and Reagan had all survived earlier hunts, so when running presidential campaigns they were nimble enough to force the press to work a little to sink in their teeth.

With Shriver—a 60-year-old innocent who had never run for office on his own—it was as though he couldn't wait to expose his vulnerability. His announcement speech at the Mayflower Hotel on September 20 was hardly into its first syllables when he was claiming the legacy of John F. Kennedy. The packed and high-mood celebrators in the ballroom cheered and stomped at their Sarge's taking up the fallen banner of JFK, but for the detached observers the message was different: Shriver felt insecure about running on his own record and ideas, so he was hooking jumper cables to John Kennedy to be energized by a winner.

Candidates traditionally ride coattails, but this was too much to ignore for even those in the press who had affection for Shriver: a candidate using the coattails of a man dead 13 years. For those who felt no affection, the urge to move in and chew up Shriver was irresistible. The opportunity came the next day on "Meet the Press." The interviewers forced Shriver into an immediate defensiveness about the Kennedy legacy: forcing the new candidate to explain that Ted Kennedy "is the logical claimant, but he decided, you know, not to be a candidate"; to say that "my success in business did not start when I married the boss's daughter"; to dodge a question about why he stressed the Kennedy legacy but not the McGovern legacy, although he had run with McGovern in 1972. Each of the four questioners—Bill Monroe, Jack Germond, Martin Nolan, and Robert Novak—pawed Shriver with legacy questions.

The program was dispiriting because Shriver not only had a weakness revealed so soon but he had openly cooperated in exposing it. And this was before Ms. Judith Exner stepped forward with tales that gave new meaning to *Johnny, We Hardly Knew Ye*. But the real irony of Shriver's making himself dependent on John Kennedy was that, of all the Democratic candidates—the announced ones then and those running now—only he had a record of service and innovation that was unique and substantial on its own. Shriver was the only candidate who could go back and say that something he began 15 years ago—the Peace Corps—is still alive today and retains much of the philosophical purity that he originally gave it. He was the only candidate who could point to ten-year-old programs and ideas—Head Start, Job Corps, Legal Services, Upward Bound, among others—and claim that they were still productive and working today. Nixon tried to kill many of them, but failed.

By stressing this kind of association, Shriver could have forced the debate about him to revolve about his skills as a social innovator. In Washington, it is acceptable to dismiss such programs as Head Start and Job Corps, but in trips I have made around the country in the past few years, whether to the migrant worker camps in southern Florida or the coal towns in east Tennessee, I have come upon people still being served by the administrative structures that Shriver set up a decade ago in OEO programs. If there was a legacy crying out to be claimed, it was Shriver's own: one to take immense political pride in and one that separated him in obvious ways from the Jacksons, Carters, and Udalls. None of them could point to something initiated 15 or 10 years ago and say, honestly, that it was functioning today.

The best-selling position in politics today—anti-bureaucratic, pro-lean gov-

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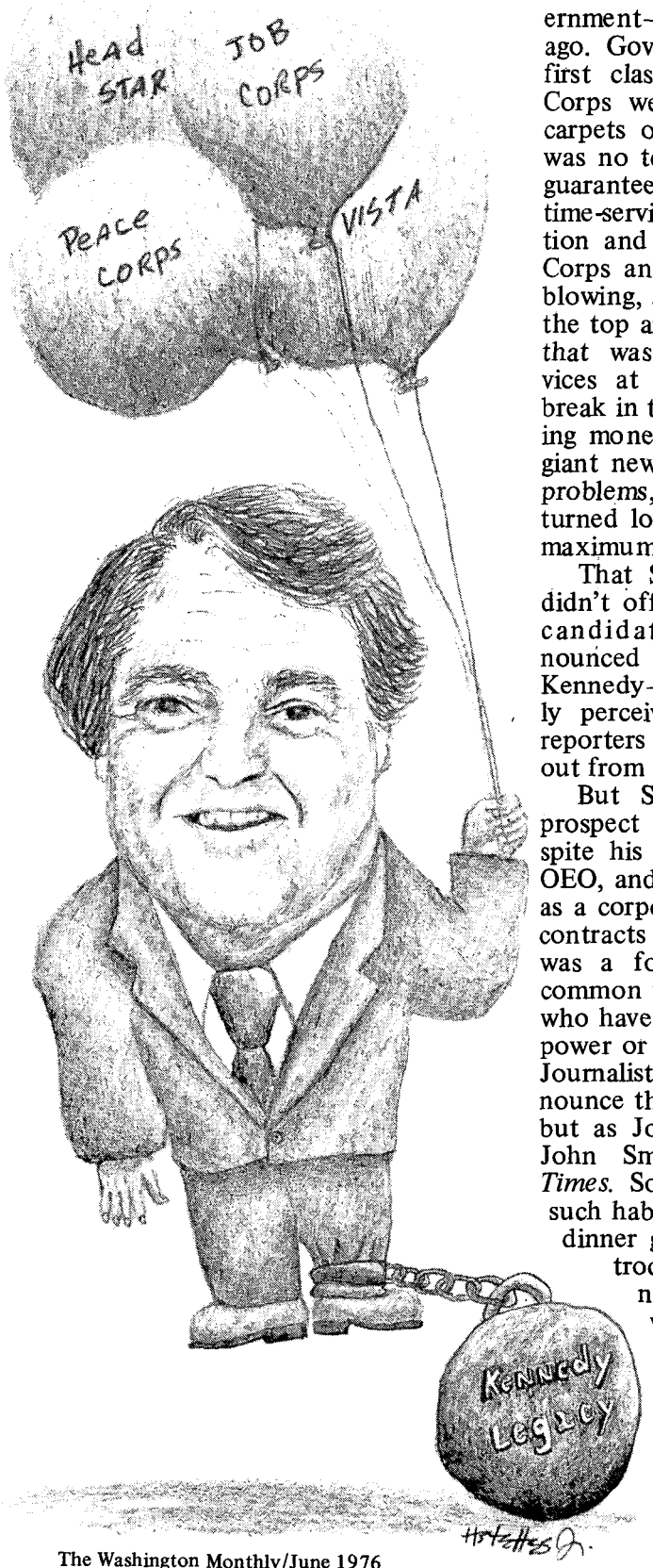

ernment—was Shriver's over a decade ago. Government employees traveled first class in 1961; Shriver's Peace Corps went tourist. There were no carpets on the floor at OEO. There was no tenure at the Peace Corps to guarantee lifetime employment to time-serving bureaucrats. The evaluation and inspection system at Peace Corps and OEO encouraged whistle-blowing, and communication between the top and bottom of those agencies that was unprecedented. Legal Services at OEO represented the first break in the liberal tradition of throwing money at problems. Instead of a giant new agency to deal with social problems, a handful of lawyers was turned loose with minimum cost and maximum results.

That Shriver, with such a record, didn't offer himself as an unattached candidate—avoiding any self-announced association with John F. Kennedy—was a mistake, and instantly perceived as a crippling flaw by reporters happy to kick the crutches out from under a candidate.

But Shriver was insecure at the prospect of running on his own—despite his record at Peace Corps and OEO, and in Paris as ambassador, and as a corporate lawyer who negotiated contracts with the Soviet Union. It was a form of personal uneasiness common to Washington. Few of those who have attachments to one form of power or another don't rely on them. Journalists use the phone and announce themselves not as John Smith but as John Smith of CBS News or John Smith of *The Los Angeles Times.* Some of the power-reliers are such habitual self-linkers that even as dinner guests—relax, boys—they introduce themselves by saying not merely who they are but whom they are with.

Shriver's psychological inability to detach himself from a source of power was standard Washington behavior. To imagine his agony is not hard. He was suddenly a free lancer. For 15 years,

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he had been safely associated with a force larger than himself. He could dash around the country, hold forth on the issues and win victories that had to be noticed, because it wasn't really himself that he was putting forward. It was someone else—JFK, LBJ, McGovern—or another cause: poverty, diplomacy. He had no difficulty battling the Albert Quies and Charles Goodells who led the congressional fights against OEO. He wasn't asking Congress or anyone else to do anything for Shriver; he was only the agent serving another, whether it was the Mississippi Head Start director who needed funds or Lyndon Johnson wanting to be seen as great. Writers who have been on the payroll of a newspaper or magazine for years but suddenly try to stand on their own as free lancers can sympathize with Shriver's situation. Now it's just me, not me and CBS or me and *The Los Angeles Times.*

That Shriver felt distinctly uncomfortable with his free-lance status is suggested not only by his sticking with a dead brother-in-law but by associating himself with a group of the glitteringly alive. Much time was devoted to organizing the "Shriver for President Committee," a list of names that included Lauren Bacall, Paul Newman, Arthur Rooney, Roosevelt Grier, Carol Channing, Morton Downey, Ara Parseghian, Mrs. Aristotle Onassis, G. Mennen Williams, Jr., Scottie Fitzgerald Smith, L. Sam Shoen (chairman of the board of U-Haul-It), among others.

The committee list wasn't all like that, but reading the names it was clear that here was a candidate who may have had a lot of friends but he must be the last of the sophomores to believe that many voters would be impressed by his knowing so many of the beautifuls. The committee list made it easier to dismiss Shriver as a

Paul Conklin

During a 1964 round-the-world trip, Shriver visited Peace Corps volunteers in Dharan, Nepal.

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lightweight, which Johnny Carson regularly took vacuous glee in doing. At Shriver headquarters, the list became an embarrassment. One volunteer told of phoning field workers in Massachusetts to ask how much more campaign literature they needed from Washington. "They'd always tell me, send up speeches, press releases, but for God's sake burn those committee-list booklets. Nobody in the neighborhoods is impressed by Sarge's celebs."

This was another irony. On the list—among the Morton Downeys, Carol Channings, has-beens and never-was-beens—were citizens whose judgment, values, and ideals were politically and morally sound. That Shriver was friends with someone like Prof. John Raines of Temple University's department of religion, or Charles Frankel, a philosophy professor at Columbia, suggested a side to him that set him apart from the other candidates even more distinctly than his record at Peace Corps, OEO, and Paris. Shriver was a passionate reader of philosophy, theology and literature, one who sought to make the connection real between daily politics and the resources of the inner life. It was not a pose of piety, but an effort to go out of himself to seek communion with minds and spirits larger and deeper than his own. It is standard American politics for public men to display their reverent side, but as Nixon exemplified with his White House prayer services, what we get is not religion but religiosity. It is useless for a candidate's supporters to claim that their man is holier-than-thou's, which is why Shriver, both in 1972 and in the six months of running just past, kept his interior life where it should be: hidden and within.

My own glimpse of it came when I began working for Shriver as his speechwriter in 1966. I had been roving around the country and sending in articles to some of the smaller magazines. One of them appeared in the *National Catholic Reporter*, then and now a lively weekly. Shriver, a NCR subscriber, had read a piece of mine on Harlem. A week or two later, when I was in Kansas City, he called. He enjoyed the article and needed a speechwriter. Could I come to Washington to talk about the idea. It was a heady moment for me, discovering that something I'd written in a small circulation journal was read by one of the few national figures that I respected. This was also the first job offer I'd ever had. But on coming to Washington, I had no reason to be overjoyed. I would blow it when I met Shriver, I thought, because he would ask me—having been well out of circulation for five years—what I knew about Head Start, VISTA, Foster Grandparents, and I would know no more about them than about molecular physics. We went to dinner. For the next four hours, not a word passed between us about OEO, Peace Corps, or anything else of political Washington. Instead, the discussion involved the life and thought of such philosophers as Leon Bloy, Ronald Knox, Henri DeLubac, and Romano Guardini. At one point, Shriver went off on a long conversational discourse on the differences between the early Jacques Maritain, the middle and the late Maritain. I had spent enough time reading this French philosopher to know that Shriver wasn't bloviating and that he did indeed have a sensitivity to ethics and moral theology. I was amazed by Shriver, because he was then much the worldly success that Washington embraces. His enthusiasm for ideas and moral issues had to be respected because he was no recent convert—a la Chuck Colson—whose candlestick talk dripped with the wax of piety. Shriver told me that while a student at Yale, 30 years earlier, he had invited Dorothy Day to come speak to a group of students there, and that he had kept up with the Catholic Worker people since. One of those he most admired was Daniel Berrigan. In 1965, when Berrigan was known only as a promising poet,

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Shriver had asked him to baptize one of his children.

Because I knew a little about Maritain and Leon Bloy (author of *The Woman Who Was Poor*), Shriver hired me. In three years of helping him with speeches, it was always striking that rather than my sprinkling in quotes from the heavies—as most politicians, wanting the wise sound, demand of speech writers—the quotes would come from Shriver. He would pass along the latest book he had read—Unamuno's *Tragic Sense of Life* or something of Bergson, Teilhard, or Ralph Ellison—and suggest that some of the underlined material be used for the next speech. A few months ago, when I went to his headquarters to talk about his campaign, he rattled on about the progress he was making in New Hampshire and Massachusetts. Others were in the room then. But when they left, he asked the secretary not to be interrupted. He reached into a drawer and took out a book. He began reading aloud. "Let's see if you recognize this," he said. He read a page and a half. It was from Maritain's *Social and Political Philosophy*. Shriver would read a sentence, and exclaim, "and just listen to this!" He would go on, get excited, stop, read on. About half an hour passed and, recharged, he was ready for the outside world again.

It is maddening that Shriver's early campaign botches made it so easy for him to be dismissed. Nothing worthwhile he said or did seemed able to free him from the self-inflicted damage of the Kennedy connection or the sheen of his beautiful people image. Yet, going back, much of what he actually was saying not only has sharpness and insight now but was able to command serious attention when he said it. In January, he issued a 22-page economic position paper with the kind of persuasive arguments and careful analysis that no other candidate—before or since—has presented.

Shriver was also the only candidate to try to arouse a campaign discussion about family life and the effect—usually disastrous—of government policy on parents and children. *The New York Times* and other papers devoted editorials to Shriver's ideas, but how much did anyone want to hear those ideas? In April, a month after Shriver retired, Jane O'Reilly ended a column in *The Washington Star*: "The problems of families and children in the United States are extraordinarily complex and important. Why aren't all those men running for President talking about it?" One was.

For all the commotion about the supposedly religious natures of Jimmy Carter and Jerry Brown, a Shriver paper on "Religion and the Presidency" represented the only specific statement of a candidate's uses of religion should he get to the White House. "I can assure you of only a few things," he wrote. "If I am elected President . . . I shall establish a Council of Ethics Advisors, similar to the Council of Economic Advisors. . . for most presidential problems have ethical, not just financial, scientific, military or political dimensions. Frequently the more important question is, 'Should we do it?,' not 'Can we do it?' "

Shriver is as thoughtful, candid, and creative a person as we have in public life. He just should be kept from running for office. He botches it, whatever the causes, in or out of his control. But should the Democrats win in November, the need will be present for someone in the cabinet who has survived countless struggles with Congress (as he did at the Peace Corps and OEO), brought government to the citizens—through Community Action programs, neighborhood Legal Services offices—well before "down with Washington" became a slogan, and came forward as a presidential candidate with careful thoughts about economics, family life, and ethics. Besides that, he has read Jacques Maritain, early, middle, and late. ■

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Kennedy: The Playboy Image

by James Fallows

The old Kennedy hand was weighing his words. He had just finished ticking off the reasons he considered Edward M. Kennedy one of the outstanding men in the Senate. He was hardworking. Smart. Brave about his principles. Able to attract, and then to use, and if necessary to discard, some of the most competent of staff men. The right mixture of calculation and spontaneity. A good public servant.

The description took nearly an hour. Then he paused, staring through his window to the construction below. There was something else, he said. He hated to use words like "the dark side of Ted's character," but there was something there, which everyone close to Kennedy had seen. The fast driving. The occasional fraternity-like bashes. The continuing quest for women. If he could only cut all this out, the Kennedy hand said, then he would be an unequivocally outstanding leader. People would not have to pause before saying, yes, they hoped Teddy would be President some day.

"Why doesn't he change?" the visitor asked.

"Why couldn't Macbeth stop himself?" was the reply.

Teddy has finally been taken at his word. As the campaign of 1976 drags on, he is no longer a necessary, or even a plausible, presidential figure. He was most attractive, despite his own disavowals, in the days when it was impossible to imagine a winner emerging from the pack of ragtag Udalls and Bentsens contending for the crown. Jimmy Carter was the first to break that barrier, and if, as seemed unlikely, he was ever to be overtaken, it would be by someone who seemed even more potent than he. The party did not need Teddy, not the way it used to think it did.

So for four years, eight years, who can say how long, Edward Kennedy will remain in the U. S. Senate—assuming the easily assumable, that he will win his race for reelection in Massachusetts this fall. Taken solely as a senator, his story offers no contradictions and only a limited sense of drama. He has done a good job there, often an outstanding one. He has few real enemies in the Senate, but even they will often agree with his friends, that Kennedy is one of the handful of most competent legislators.

But Teddy will not be considered solely that way, at least not until many more years have passed. His hold on the imagination is due less to any nostalgia for the lost glamor of Camelot than to his status as the lone

James Fallows is a contributing editor of **The Washington Monthly.**

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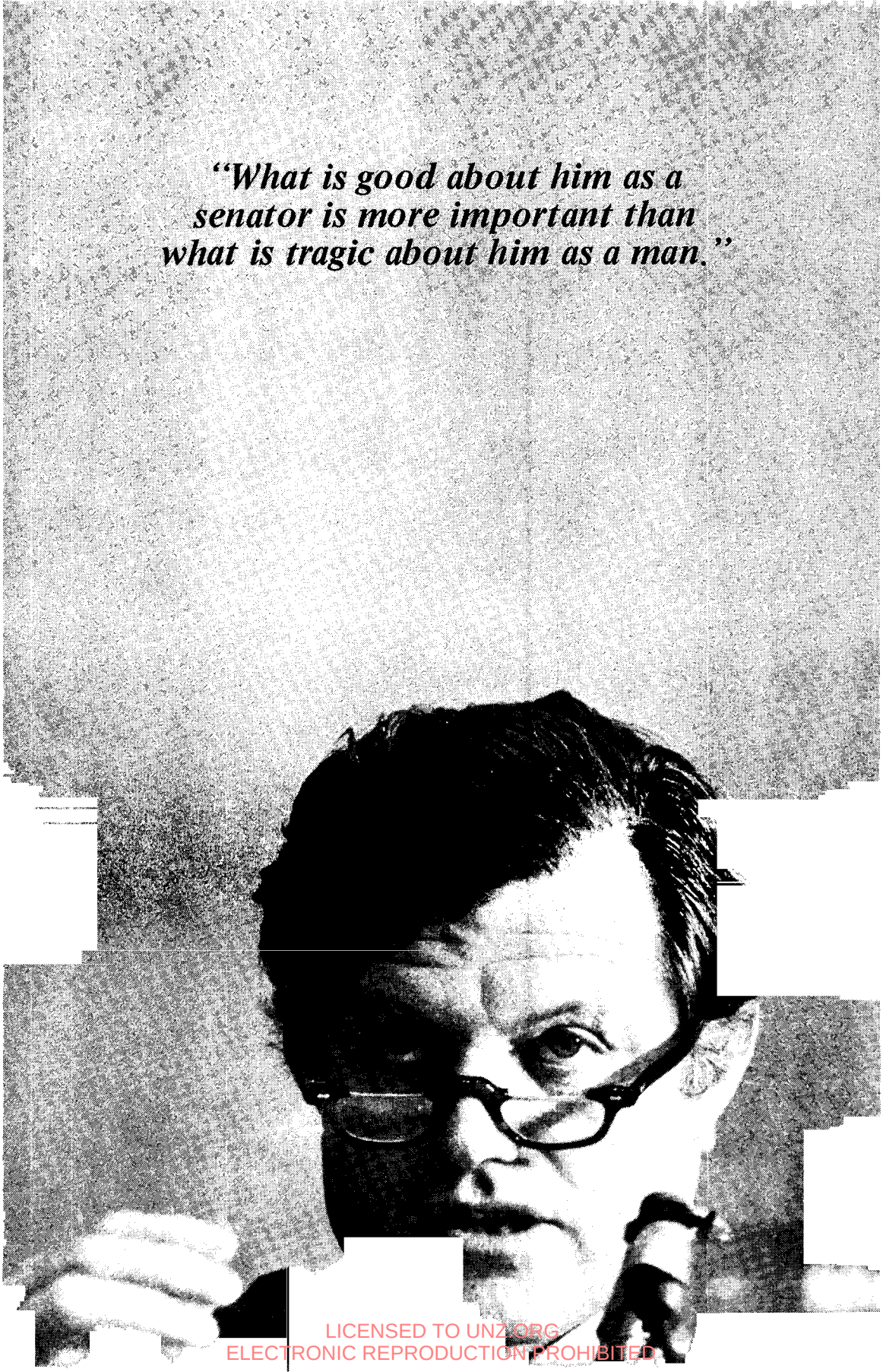
"What is good about him as a senator is more important than what is tragic about him as a man."



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relic of the shared national religious experiences of 1963 and 1968. Thinking of him in the White House, it is not the East Room concerts of Pablo Casals that come to mind so much as a somber Edward Kennedy waving from the rear of his brother Robert's funeral train, or the black horse bearing empty boots marching down Pennsylvania Avenue, or the family portraits, from which just one son remains.

Struggle as he did to leave the race this year, Teddy quite deliberately encourages presidential hopes for the future. He will tell most people who ask that, yes, he would like to be President some day. When the receptionist in his office answers the ceaseless stream of telephone exhortations, she says, "He's made up his mind not to run for the presidency this year. He's only 44 years old now. There's a lot of time left." It is always surprising to realize just how much time. In 1984, Teddy will be eleven years younger than Gerald Ford is today. Only in 1996 will he have attained Scoop Jackson's current age. His appeal may not survive such long storage. By 1984, there may be a younger, fresher candidate available, who has not spent the previous 22 years marking time in the Senate. Until then, however, Teddy will be America's Prince Regent, and as long as that is so the drama and the pathos will remain with his story. The question that engrosses his friends is how someone who has devoted such patient, loving care to the construction of a worthy political career can throw caution to the wind in living his own life. The question that matters to the rest of us is whether this contrast is important.

When Kennedy came to the Senate in January 1963, he cut an extremely unimpressive figure. A youngest son, barely 30, obviously elected on the strength of his family's name and not his own accomplishments, his main ambition seemed to be to spare himself further embarrassment. "Does it have a chance?" he would earnestly inquire before adding his name to any piece of legislation, so eager was he to avoid the false step that would make him look a fool. His one singeing bout with incaution—pushing the old family retainer, Francis X. Morrissey, for appointment as a federal judge—only increased his subsequent hesitation. Even the praise given Teddy after a few years in office, that he was more of a "Senate man" than his brothers, only emphasized, by implication, how much less daring and how much more tolerant of the fatuous and petty he must be than his dazzling predecessors.

Every move Teddy makes in the Senate is still most carefully weighed, but there has been an enormous change in the intentions and the results. For most politicians, a calculation of the political risks is an excuse to do too little. The perils of the next election can be a reason not to push the bill, cast the vote, or make the speech the legislator knows he should. I hate to do this, he will tell his friends, his wife, but otherwise I'll get massacred at the polls. After the next election, he tells them, after I am safe, I will really come on strong. John Kennedy will go down in history as the man who knew he should take the troops out of Vietnam, but was waiting until the next election to do so. He wanted to pass a civil rights bill also, but not too soon.

Teddy's, too, was the calculation of caution during much of the sixties. This is his fate no longer, for Teddy has learned to use political calculation as a means of liberation rather than restraint. By paying attention to the things that matter in being a "good" senator, he has given himself a tether and learned its precise length. Instead of staying close to the pole, he realizes how much room he has for maneuver, and has gone out as far as he can on issues that matter to him. This is as close to "courage" as a man can come if he knows he must win 51 per cent of the vote at the next election; it is the best we can hope for from a career

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politician. Given his constituency and the magic of his family name, Teddy automatically has more room than a Senator Tunney or Clark will ever have. The point is that he dares to use it now.

The first clear demonstration of this came during the war years, even when he was in Bobby's shadow. Among his natural allies were the rebellious students of our fine, liberal-arts colleges, but when Kennedy went to talk to them, he told them what they did not want to hear. The draft is bad, he would say. Cheers. We must reform it. Cheers again. But what he proposed was not the volunteer army —panacea to the students who knew they would not have to volunteer—but an end to student deferments, as a way of reducing the vicious class discrimination of the draft. How many people support a volunteer army? Kennedy would ask time and again. Hands shot up everywhere from the crowd. And how many would volunteer? In the midst of the resulting silence, Kennedy would explain that such a double standard was wrong, was unfair. It was an obvious point, but he was one of the very few to make it at the time.

Kennedy's devotion to refugees, too, seems to be something more than a fling with radical chic. As the newest crop of unfortunates, the refugees from Vietnam, have piled up in this country, indifference has been the most charitable of the responses they provoke. Yet Kennedy has kept his staff plugging away on their behalf, trying to get them out of the internment camps and into a semblance of normal life.

Last March Kennedy kicked off another worthy campaign, this one for tax reform. He made a lengthy presentation to the Senate Finance Committee, in support of three general reforms. One was to reduce the "tax expenditures" (known as "loopholes" in the old days) which protect a large share of the upper classes' income; the next, to enact additional tax breaks for the poor; and the third, to find more effective ways to encourage capital formation and business productivity. It was not exactly a great imaginative leap—Kennedy did not, for example, propose dumping the home-mortgage interest deduction, that pathetic bit of bait which has lured us all into supporting the loophole system, even though most of its benefits flow to the rich. But by comparison both with present law and recent "reform" bills, Kennedy's represented a dramatic improvement. "In terms of substance," Ralph Nader said at the time the tax bill was introduced, "in a range of issues, he's become one of the truly outstanding senators."

"Kennedy has the talents that count as inte hours, and the ability to bone up on a subjec

One of the ways to become a "good" or "effective" senator (the words are virtually synonymous on Capitol Hill) is to become a master of

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detail in several specific areas. This Kennedy has done, using the bright lawyers and academics who, because of glamor or glory or effectiveness, have always been drawn to his staff. ("When I was first interviewing for jobs on the Hill," says one of these people, "I went up to talk to Walter Mondale. He found out I was also considering Kennedy. He looked at me funny, as if he couldn't understand what I was doing talking to him

:e in a legislator: a willingness to work long :dy."

if I had a chance to go with Kennedy. He explained the difference to me. 'If you write a good speech for Kennedy, it will make page one in *The New York Times*. If you write a good speech for me, it will make page one in Duluth.' ")

The way to establish such expertise is to work through subcommittees and their staffs. Every Democratic senator, as part of the spoils system in Congress, is chairman of at least one subcommittee. The longer one survives in office, the more of these little fiefdoms one comes to possess, and the better their quality—until, for the most senior senators, there are full committees, rather than subcommittees, to be disposed of. A subcommittee not only provides a half dozen or more staff assistants to do a senator's bidding, but also gives him presumptive right to pronounce on the topic in question. In 1965 Kennedy acquired his first subcommittee, on refugees, through which he registered many of his "humanitarian" protests against the war. Over the last five years, he has acquired two other important subcommittees, which are now his major vehicles for grinding out legislation and establishing responsible, "expert" policy positions. One is the health subcommittee of the Committee on Labor and Public Welfare; the other, the Administrative Practice and Procedure subcommittee ("Ad Prac" on Capitol Hill) of the Committee on the Judiciary.

They can have wonderful advantages, these subcommittees and their staffs. A recent project in Ad Prac illustrates just what kind. For years and years, the subcommittee had concentrated on Naderesque inquiries into the shortcomings of government agencies—whether the food and drug laws, for example, were being administered in a responsible fashion. If hardly unique, this was still a creditable activity, since most congressmen, especially in those days of ambitious social programs, were more interested in getting a law enacted than in checking to see what happened after it took effect.

Two years ago the subcommittee headed in a different direction, when Kennedy hired Stephen Breyer, a professor on sabbatical from the Harvard Law School, to be its temporary counsel. Before joining the committee, Breyer had talked with Kennedy about enlarging its scope. Instead of merely finding out whether the gov-

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ernment was obeying its own rules, Breyer said, it should ask what effect the rules themselves had on the workings of the economy. Throughout 1974 and 1975, Breyer directed hearings on the Civil Aeronautics Board, the agency which has essentially run the airlines business since 1938, and which seemed a sitting duck for illustrating the darker side of regulation.

Breyer claims that, when the hearings began, Kennedy did not think they would be a big public-relations success. By the time they neared completion, however, they made headlines all across the country. A skeptical view toward regulation was becoming part of the conventional wisdom. The subcommittee's report on the CAB—which suggested that natural competitive forces, freed from government control, might make life brighter for the consumer and the businessman as well—was eagerly snapped up by editorialists, academics, and even other politicians. It was an admirably concrete illustration of the principle they had been expressing in generalities—that excessive or inappropriate regulation could hurt the very interests it was designed to protect.

From Kennedy's point of view, a study like this brought three blessings. First, it added another string to his bow; it marked off yet another area in which he had done serious, "responsible" investigative work. Second, it made him look "effective"; the CAB spontaneously adopted several of the subcommittee's suggestions, and both President Ford, and his Secretary of Transportation, William Coleman, released letters endorsing the report. Third, it gave him a new beachhead in the struggle for "turf" with other senators; he now had a basis for making pronouncements about regulatory policy, sure to be an important issue in the months and years ahead.

Kennedy has followed the same pattern in his other special territories. Find an expert. Learn the details. Make sober and authoritative statements. His health subcommittee staff, for example, has learned what there is to know about biomedical research policies, hospital construction, and the like. As Daniel Greenberg wrote this spring in the *New England Journal of Medicine*, not a notably sympathetic source, "On matters concerning science and medical affairs. . . Kennedy has been deeply involved and responsible, more so than any of his 99 colleagues."

In his first few years in the Senate, Teddy was still very much a man in formation. Most people have grown up before they reach the Senate; Teddy had to undergo that process after he arrived. Veterans of those days recall how easily—with just a joke, even a glance—his brothers could reduce him to the dumb, fun-loving sidekick role he had always played, and how large a part his staff played in helping him think out the things he should stand for as a politician. One man in particular, David Burke, a lawyer and the son of a Massachusetts cop, helped lead Teddy toward the "underdog" social positions he now cites automatically as the keystone of his policies.

There are still a few old-timers left on the staff—the corps of personal secretaries, and Eddie Martin, a Boston newspaperman who handles the press—but the new generation of assistants represents hired talent rather than confidants or molders of conscience. Kennedy's intellectual independence is now such that no one member of his staff is ever in permanent ascendancy. The careerists of Capitol Hill know that when they need to deal with Scoop Jackson's office, there is one top banana to work through, and another in Hubert Humphrey's. But when working with Kennedy they will find themselves playing one staff member off against another—as Kennedy himself will do.

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Among other things, this delicate balancing has helped Kennedy avoid one of the worst organizational traps—the Haldeman Syndrome. All up and down Capitol Hill, ambitious staff men have followed Haldeman's example by installing themselves as chamberlains to the boss, making sure that anyone who wants to see the senator or representative must come through them first. (This is not a phenomenon limited to the U. S. Congress; consider Machiavelli, Cardinal Richelieu, John of Gaunt, et cetera.) They hurt the boss by denying him full exposure to the outside world, and they destroy morale by creating wild jealousies among the people below. It is a point of self-conscious pride within the Kennedy office that this does not happen. During the day his assistants dog his heels, asking him questions and feeding him facts. In the evening, after Kennedy has taken one of his half-hour cures in the senator's gym, the staffers are lined up in his office, unscreened by any chamberlain, to see him one by one. The analogy everyone uses is a wheel—Kennedy is the hub, each assistant a spoke—but the simpler way to put it is that one man is clearly in control.

The sense of control is intensified by Teddy's careful distribution of his personal charms. As a member of the nation's holy family, Teddy retains a certain unmatchable aura. (As one of his assistants says, "The great thing about working for Kennedy is that *no one* refuses to return your calls.") In addition, personal warmth and gregariousness come more easily to him than they did to his brothers. (As his mother put it in her book, "Being the last child, and a robust, handsome little boy, I expect that in our family he received the most affection from the most people at the earliest age, and that this helps to account for his cheerful and outgoing character, his expectation of liking people and being liked. In a rather old-fashioned but good term, he always had a 'sunny disposition.' ")

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Sometimes the "story behind the story" tells the reader a little more than he cares to know about the writer and his adventures. But there is a kind of story behind most political stories which readers at least deserve a chance to know about, and which came up in the preparation of this one.

Like many people who are both skillful politicians and friendly human beings, Edward Kennedy can make it a pleasure to deal with him. I had a good time working on this article. Kennedy was friendly and forthcoming. His assistants gave me whatever help I needed. Kennedy was not stinting with his personal charms and attentions; indeed, he invited me out to the house for an afternoon of tennis, showed me through the family heirlooms, introduced me to the kids. I had given him a copy of an earlier article I had written, which mentioned quite favorably his efforts to reform the draft. Shortly afterwards he had the article printed in the Congressional *Record*, and he sent me a flattering note about it, with a hand-written postscript about our next get-together on the courts.

Now, it would take a more cynical view of human nature than I have to read these attentions as the product of single-minded calculation. Most people are calculating about their friendships to some extent, and politicians are more calculating than most. I realize that I would not have received quite this treatment if I had not been writing the article. But Kennedy has the knack, so invaluable to a politician, of making useful gestures in a natural and unforced way. I saw him smile at many people, but never with what seemed to be a forced grin. I saw him deliver compliments, but none that seemed patently contrived. As his mother says, in the paragraph quoted above, he has a "sunny disposition"—which,

He has learned the little tricks of tact, a point his staff illustrated by contrast with Henry Kissinger. While on his tour through South America this spring, Kissinger delivered a self-congratulatory speech in Venezuela about the wonderful things the United States was going to do for the earthquake victims of Guatemala. Kennedy's assistants howled with derision when they saw the press reports, for they knew what Kissinger apparently did not: that the Venezuelans themselves had been first on the scene with help after the earthquake struck. "Kennedy would never make that kind of mistake," one of his assistants said. "The first thing he would have asked is, 'And what are they doing about it here?' And then he would have begun his speech saying how proud he was to be in a country that was so generous to its neighbors in distress."

"He has the ability, more that any other working politician, not to personalize criticism," says David Halberstam, whom Teddy's brother John, in pique over his reports for *The New York Times*, tried to run out of Vietnam. Teddy has one or two natural enemies in the Senate—Barry Goldwater, Robert Byrd, and occasionally Gaylord Nelson, who is offended when his ideas for medical legislation seem to wind up as bills with Kennedy's name inscribed. But in general he has learned the art of peaceful coexistence. It takes both care and charm.

But the charm is not indiscriminate. Teddy has learned to focus it for the maximum effect. Every so often staff members will get a dinner invitation; Teddy is having a gathering of advisors at his spectacular house, on the banks of the Potomac in McLean. They will come flying in, from Boston, from Chicago, the experts on economic policy and arms control and health, to dine with Kennedy and his staff and let him pick their brains. Everyone is delighted to be there,

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as it happens, pays off handsomely in his profession.

I also do not think that these little niceties made any difference in my judgment of Kennedy or what I wrote about him. I am not looking for a job on his staff, and I will manage to live quite happily without being part of his social set. Like most people, I would rather be liked than disliked, but I have learned that dislike is sometimes the price you must pay for writing what you think about a subject.

Precisely because I was so confident in my undistorted judgment, my usual practice would be to do what most journalists do—namely, to make no mention of these extra-curricular contacts with the subject and the friendliness he displayed. In a way, this reticence is a sign of reverse snobbery, or a becoming sort of modesty. Last year, John Hersey wrote a book about Gerald Ford, called *The President*. In it he omitted one interesting fact—that he and Ford had known each other at Yale, when Ford was coaching the football team Hersey played on. Those who knew Hersey said that he was silent on that point because he did not want to seem to be bragging—he did not want to flaunt his connections with such a mighty personage. But there is obviously a greater danger, namely that the writer's judgment can easily be co-opted as a result of social contact with his subject.

Although I don't believe that Kennedy's attentions distorted my judgment, I do believe the "full disclosure" which the press is always insisting on from the politicians could with benefit be applied to the press itself. I think that I. F. Stone goes too far in insisting on a kind of social celibacy, but when reporters do engage in this intercourse, they should at least leave a few clues so that the reader has a chance to make up his mind.

staff as well as visitors, and in the warmth of his embrace they will do whatever they can to help Teddy. But apart from these occasions, there is little social fraternization between Teddy and his troops. It is a matter of employer and employee.

It is all in deadly earnest—the personal attentions, the treatment of the staff, the legislative homework. On vacations Kennedy may drop in on friends like Richard Goodwin. He will make small talk for ten minutes, and then come back to the health bill, or gun control, and chew them over for hours. Night after night he drags home his briefcase full of papers, to study, make notations, let the staff know he is on top of things. The briefcase itself has become a joke among the staffers. It swelled, began to burst, was joined by a second. Kennedy has the talents that count as intelligence in a legislator: a willingness to work long hours, and the ability to bone up on a subject quickly.

His colleagues in the Senate were impressed, even those who hated the principle he stood for, when he endured the taunts of the maddened whites of Boston and repeatedly told them that they must obey the court's orders about busing. There was something suspect in his position; there is always something suspect when the suburbanites and the upper classes, their children safe in private academies and respectable public schools, lecture blue-collar workers about interracial understanding. But no one could call his an expedient or craven position. It would have been easier for Kennedy to give one great demagogic speech about the evils of busing, safe in the knowledge that it would not change the court's decision one bit. For years before the order came down, Kennedy was saying in Boston that integration was coming, one way or the other. The school committee could plan for it itself, or it could wait

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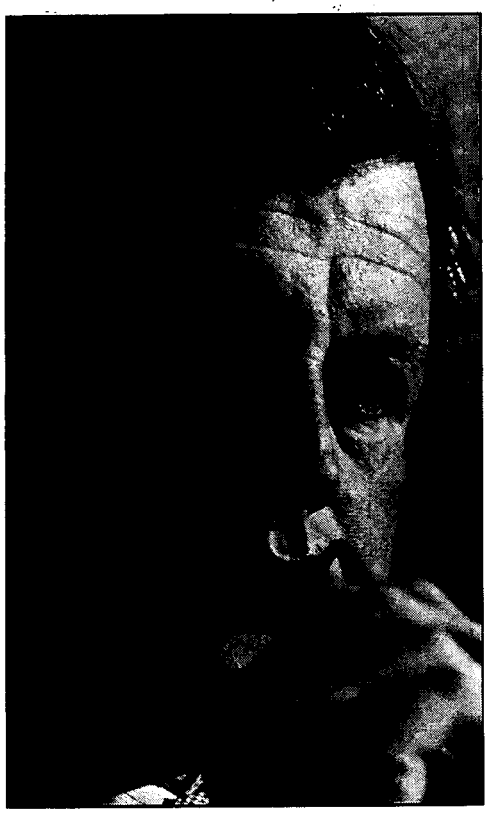

for the federal judges. Now that the crunch has come, Kennedy spends many of his weekends listening to irate groups of parents, telling them that he is sorry, he understands their problems, he is Boston Irish himself, but they have to obey the law.

Many people close to Kennedy share similar memories of scenes like these: They are sitting with him, in rapt discussion of the nuances of a health bill. They watch him slave for hours over a statement on detente. They see him follow every rule in the book of legislative craftsmanship and decorum. And then, in a twinkling, they see another man. He is careening down the street at breakneck speed. He is eyeing a woman in the corner of the room. He is digging in for a bout of black Irish drinking.

Like Kennedy's Catholic Church, the journalistic profession recognizes certain de facto distinctions between private and public morality. Private behavior, under journalism's normal canon, matters only when it affects public performance. It matters that Wilbur Mills and Russell Long took one drink too many, because their performance in the Congress suffered accordingly. (Even so, the press was slow to report these facts.) It may not matter that another politician is estranged from his wife or has had a breakdown or is gay.

By these standards, Edward Kennedy, the senator, has very little to answer for. Whatever may be flawed in the inner man, it has left no mark on his performance in the Senate. Yes, there is the risk that he will kill himself through reckless driving (he might have been the one drowned at Chappaquiddick, if indeed he was driving the car). Yes, he may wound his wife and family through personal recklessness, and thereby somehow impair his capability to serve. But apart from these indirect possibilities, his personal torments are not publicly significant, not as long as he stays in the Senate. Even his most conspicuous sin—that he has for seven years stuck with a Chappaquiddick story that virtually defies belief—no longer subverts his performance as a senator. Some of his assistants will admit, very privately, that they cannot believe his story. "No one who's thought about it can," was the way one put it. And yet they stay. They still choose to work for him. Ambition may play a part in that decision, and the rubbed-off glamor that Kennedy can impart, but most of all it reflects the conviction that what is good about him as a senator is more important than what is tragic about him as a man.

When we think of Presidents, a different calculation must be made. One does not want to sound too pious about these things; Kennedy is hardly the only man of his generation to grow up thinking that, whenever you had a chance to get laid, you were a fool to pass it by. This was simply a part of many men's mental equipment during the 1950s. It might be signifi-

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cant, as a clue to Kennedy's character, if it were accompanied by other signs that he gloried in domination or proofs of strength—if the ethic of machoism were as important to him as it was to Richard ("pitiful, helpless giant") Nixon, Lyndon Johnson, or the worst sides of Teddy's brother John. But nothing in Kennedy's public performance has suggested that need. Like another college football player, Gerald Ford (apart from the rescue of the Mayaguez), Kennedy has not needed to go flexing his muscles in other people's faces.

What is significant is another set of clues, especially the drinking and the fast driving, which suggest a streak of self-destructive behavior. A senator with such a streak can finally only harm himself, but a President can harm many others.

Maybe the streak is not permanent; maybe it has been exaggerated even now. Maybe in 1980 or 1984 its traces will have disappeared. But as long as it remains, it is the reason for worrying about his candidacy. This, it should be emphasized, is a different reason from the one Garry Wills has argued in a recent issue of *The New York Review of Books*. Kennedy's glamor is so great, Wills says, and other men's desire to please him so strong, that he can strip people of their normal power to criticize and judge. That was demonstrably true in the summer of 1969, but I doubt that it is true any longer. If Teddy drove off a bridge once again, I don't think that the same council of elders would convene to protect him, nor that the local police and judiciary would so willingly turn a blind eye. The "legacy of Camelot" has lost some glitter in that time, and Teddy's own imperfections have become widely known. The danger is not that we cannot see Teddy's defects, but that there is so little leeway for them in the White House.

Some of those closest to Kennedy suggest that there is a simple way to explain the contrast in his behavior. He does not really want to be President, they say. With his head, he says yes; with his heart, he says no. If his acts are "self-destructive," they are meant only to destroy the ambitions that others have urged upon him. If that is so, then there could be a simple, happy ending to the story of Teddy. He could remain in the Senate, a demonstrably valuable public servant, his private behavior of concern to no one but himself. He might also be spared the unspoken horror of a presidential campaign—not the certainty of smears upon his character, but the probability of physical harm. Some of his friends say that speculation about a Kennedy administration is disingenuous and wrong, since he would never survive a campaign.

The answer to these various worries is the one Teddy himself has chosen, at least for the time being—to stay in the Senate, where he has done just the job we would hope he might do. ■

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How To Get a Government Job

by Ann Pincus

You are a decent, public-spirited American, without obvious defects of character or intelligence, and you want to work in Washington for the government.

Your ambitions are limited. You don't want to be a National Highway Traffic Safety Administrator, or executive director of the Marine Mammal Commission, or a member of the Railroad Retirement Board.

What you have in mind is something on the order of Executive Assistant to the Federal Disaster Assistance Administrator of the Department of Housing and Urban Development—a medium-level civil service job, in other words. Or maybe you're even willing to settle for the lowest administrative job on the ladder.

So you turn to the Civil Service Commission, which was established in 1883 to help and protect people like yourself, and you attempt to apply for a job that suits your interests and qualifications.

Entering the Civil Service building, you are directed to the Federal Job Applications Center, a reassuringly bureaucratic anteroom, where a series of display cases are filled with descriptions of job openings in the various agencies. You notice that the best-sounding ones all seem to have "closed" stamped over the cover,

Ann Pincus is a Washington writer.

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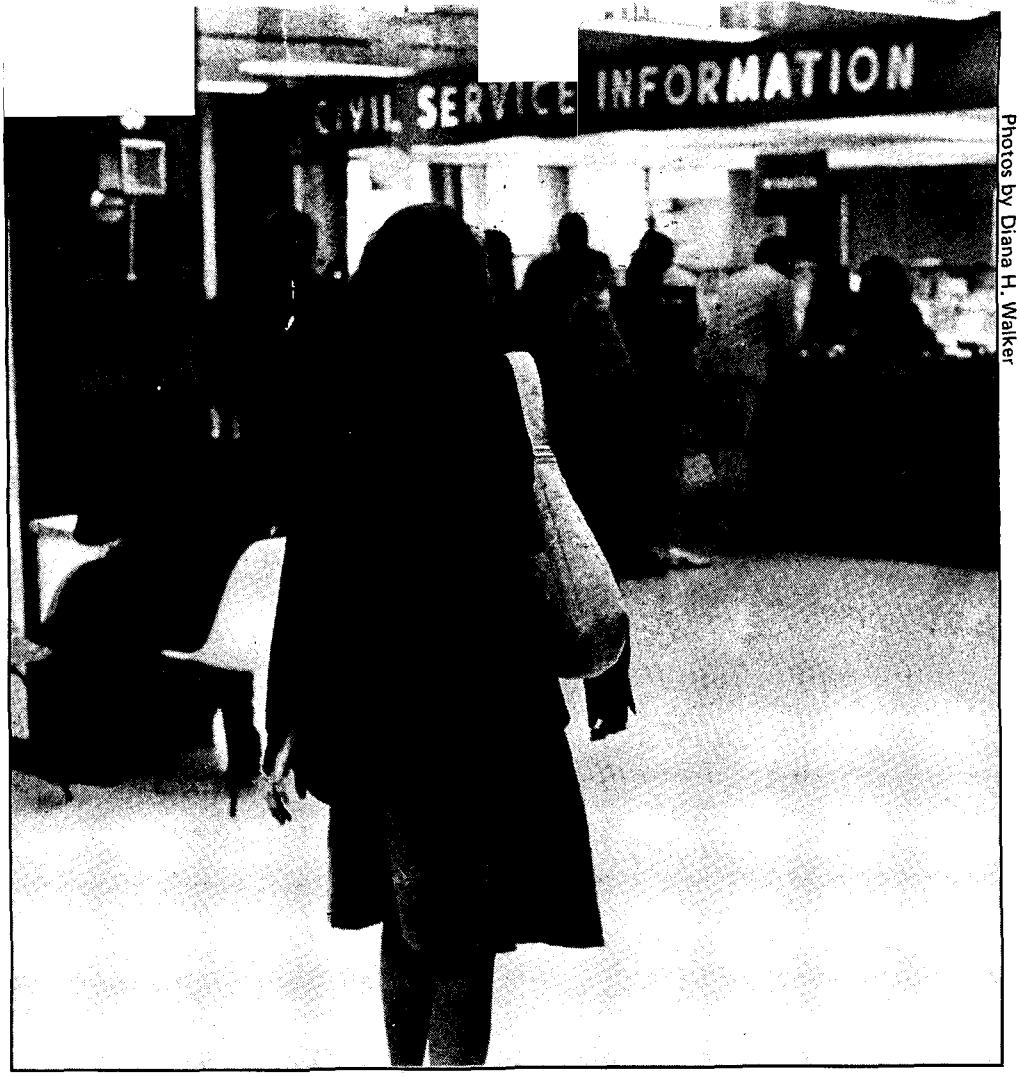

Photos by Diana H. Walker

which means that the job has been filled.

Surveying the Federal Job Applications Center, you come upon a group of people standing in front of a television set. Someone pushes a button, and the face of Jim Vance (black anchorman on NBC's local evening news show) comes on the screen with a 90-second explanation of how to get a federal job. He outlines the competitive process and advises: "The government does not have jobs for the people, it has people for the jobs." The truth of that statement will become clearer to you in time.

But for the moment, you are just another job-seeker, and you stand behind 20 other applicants (the average number of walk-ins is 718 per day) in the information lines where a member of the Civil Service personnel staff advises you what forms you need. There is an express line for those who already know what forms they want.

You go home, fill out the forms, send them to the Civil Service Commission, and wait up to six weeks to hear whether you are qualified for the GS level for which you have applied. (Anything below GS-9, you must also take a written test.) If you are qualified, you receive a letter from the Civil Service, informing you that you are now on the register and that they will let you know if anything turns up.

You should frame the letter, because the odds are very high that it is the last you'll hear about that

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federal job you hoped to get.

Consider the statistics. Around 300,000 people apply for civil service jobs through the Washington office each year. Only ten per cent get jobs. And barely more than one per cent get administrative jobs.

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Let's start with the PACE (Professional Administrative Career Examination) level of jobs, which are GS-5 and GS-7 with base salaries of $8,925 and $11,046. To qualify for a PACE-level job you must take a written examination. Each year there are between 1,600 and 2,000 PACE jobs in Washington listed on the Civil Service register. That is not all the PACE jobs that are available, because many others are filled from within the agency, in-house promotions, transfers from other agencies or persons coming back into government. Of the 1,600 to 2,000 filled from outside the government, 36 per cent are "name requested," that is, when an agency sends over a personnel request to the Civil Service Commission, they also send over a name to fill the job. (More on how this works later.) To make the PACE system even more complicated it should be pointed out that high marks on the exam alone do not get you into the civil service. There is something called the quota system, which means that every state has a certain number of jobs—based on population—it can fill in the Washington office.

Soooo. . . You can have a 100 achievement rating and be from Virginia and not get the job; on the other hand you can have a 75-percent score on the test and possibly be hired because you are from Iowa. Not only that. There are 50,000 people on the Civil Service register who have passed the PACE exam, which means that approximately 50 people are competing for each available PACE job.

The next step up the competitive career job scale is to mid-level, which is grades 9 through 12. The mid-level base pay is $13,482 to $19,386, compared to PACE base of $8,925 to $11,046.

You do not take an examination for mid-level jobs in Washington, but you still must compete with about 15,000 others on the register. There are certain qualifications necessary to get on the register, such as education or years of experience. There are an average of 1,600 mid-level jobs available each year to persons not already working in government. Eighty per cent of those jobs are "name requested," however, which leaves 320 to be filled—presumably—by matching a person's qualifications against his or her job description and subsequent interviews.

Senior-level jobs, GS-13 through 15 (base pay $22,906 to $31,309) are also on the Civil Service register, but, again, nearly all the jobs are filled from within the government itself—95 per cent of them, in fact. This leaves 480 senior-level jobs, but don't get your hopes too high, because 80 per cent of these left-overs are going to be filled by "name requests." This leaves a mere 96 jobs which you can plausibly aim for at the senior level. Civil Service personnel insist that name requests don't automatically get hired, but they admit that "most" of them do.

In Search of a "Name Request"

The final category to be considered is super grade: GS-16, 17, and 18 (base pay: $36,338). These jobs come in two categories: career and schedule C, the latter meaning by political appointment. In 1974 nearly all the career super-grade jobs—92 per cent of them—were filled from within the government. That left only 60 career jobs to be filled by persons outside the government. What is more startling is that, of the *political* appointments to this grade, only 12 per cent were filled from the outside. That is, 88 per cent of the political patronage at the super-grade level was "dis-

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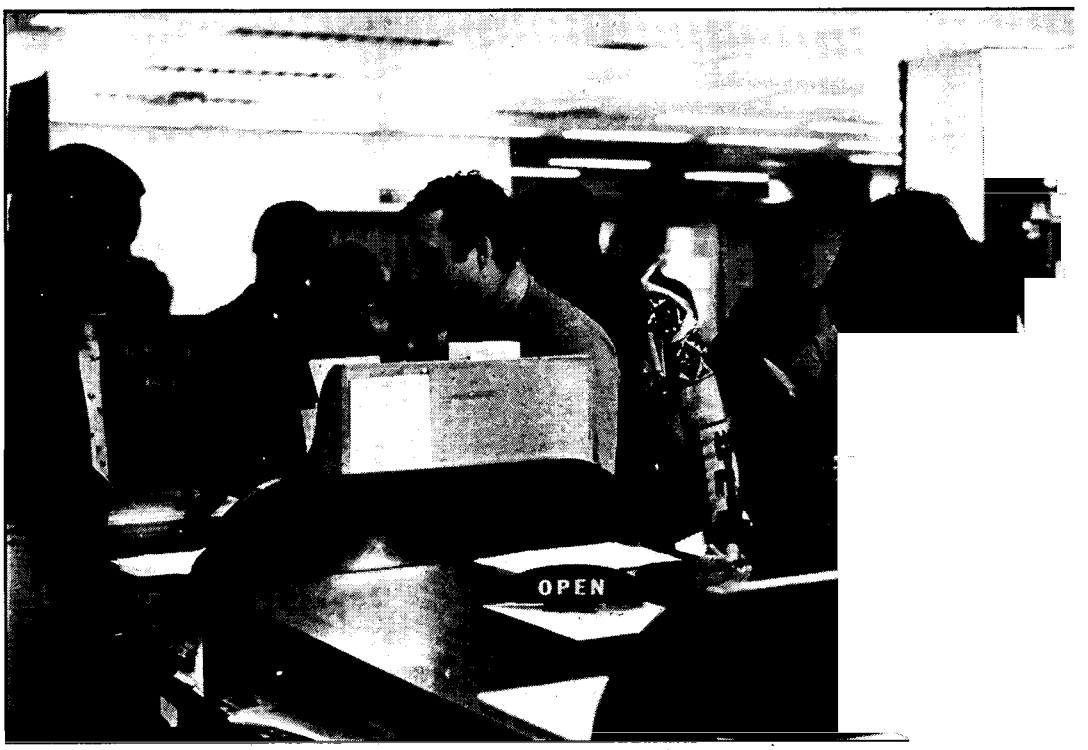
pensed" by the bureaucracy itself.

Anyway, the combined annual job openings for GS-9 through GS-18, when all the "in-house" and "name request" slots are filled, amounts to a mere 476 vacancies. Unfortunately, it so happens that there are 30,000 persons on the Civil Service register who qualify as GS-9 or above. In other words, the odds against you are about 65 to one.

Clearly, then, your only rational hope of getting a government job is to find out what a "name request" is, and try to become one yourself. Meanwhile, you could pause to reflect that the Civil Service Commission employs 3,414 people in Washington, D.C., which is not far short of the 4,000 or so that it hires each year at the GS-5 through GS-18 levels for the entire government.

act as your job placement counselor—especially if you worked in his campaign or contributed money to it. The system works this way: you visit your elected representative and remind him of his obligations to you. He in turn puts pressure on someone in the agency or department where you want to work. Your application is then circulated with "must hire" written on it, and someone somewhere finds room for a GS-13. He writes up a job description and a name request and sends it over to the Civil Service Commission.

If all goes well, the job description is written so cleverly that *only you* qualify for the job. Presto! You are hired. Usually. Occasionally there is a mixup, as when officials at the Department of Defense wanted to hire a certain man and 19 others with iden-



If you had understood Washington better, you might have started your quest for a "name request" government job on Capitol Hill and saved yourself a lot of trouble.

Your senator or congressman would probably have been willing to

tical qualifications came up on the register before him, so they had to hire all 20 persons.

A House subcommittee studying the workings of the merit system has filled eight file cabinets with "must hire" letters to the General Services

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Administration from various members of Congress seeking jobs for constituents or friends. Senator Hugh Scott, the Republican Minority Leader, has been especially adept at using the GSA, thanks to his close friendship with former GSA chief Arthur Sampson. Bob Woodward and Carl Bernstein, in their new book, *The Final Days*, quote former White House Special Counsel Fred Buzhardt as saying that Scott and Sampson ran the GSA "as a private employment agency." But for all their meddling, the congressmen—especially the Republicans—are still outsiders, and this has been especially true of late. The politicians now are more cautious than before—they have become fed up with being exposed in the press and accused of participating in crooked deals.

Buddy, Can You Spare a Job

A much more common and effective way of getting your name requested is to know someone inside the agency where you want to work. Agency insiders will be the first to know about a job opening and, knowing both you and the job, they can tailor the description to your experience. The people you need to know to use the "buddy system" are mostly Democrats—people who got their government jobs under the Roosevelt and Truman administrations, when the civil service grew from 600,000 to 2.2 million—the friends they subsequently hired, and the friends of those friends. (This helps explain why you seem to be meeting the same person over and over again in Washington—someone with the ideology of Eleanor Roosevelt and the working habits of Step 'n Fetchit.) Eisenhower and Kennedy had little impact on the civil service. It grew by 600,000 under Lyndon Johnson, but the hiring was done mostly by the old Roosevelt-Truman bureaucrats, with LBJ's Marvin Watson just trying to make sure the top appointees weren't pro-Robert Kennedy or at least weren't anti-LBJ.

Richard Nixon became the first president to challenge the control of the civil service by Roosevelt-Truman appointees and their friends. Nixon wanted to do more than just pay off political debts, he wanted to "clean out the Democratic-infested civil service," as one of his biographers put it. First, he established political personnel contacts in most of the federal agencies, whose jobs were to refer Republicans into job vacancies. and to make the agencies' personnel policies more "responsive" to the Administration's wishes.

After the '72 elections Nixon wanted an even firmer hold on the bureaucracy. His Cabinet officials had less and less control over who was hired in their agencies, and most hirings went from the White House to the special referral offices in the agencies. For example, former Secretary of HUD James T. Lynn has stated that he knew nothing about the special referral office with 13 workers in it which operated only two doors down from his own office.

White House staff members Alan May and Jerry Jones sought to "improve" the referral system. They co-authored the now famous "Malek Manual," a 600-page booklet designed to instruct top-level political appointees how to fill career jobs with Nixon types, outlining ways to rid the civil service of career personnel, in general how to activate the "responsiveness program." (The manual was called the Malek Manual because it was found in Fred Malek's files.)

The disclosure of the "Malek Manual" caused a minor panic among the federal political appointees and nearly everyone began to point a finger at someone else. General Accounting Office revelations forced the Civil Service Commission to inquire into violations of the merit system in the General Services Administration, HUD, the Small Business Administration, and CSA (Community Services

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Administration, formerly Office of Economic Opportunity and now part of ACTION). GSA officials immediately turned an accusatory finger back on the Civil Service Commission. They charged the Commission chairman, Robert E. Hampton (a Nixon appointee), with participating in a political patronage ring. Last fall Charles L. Ryan, a special assistant in the Commission's Bureau of Recruiting and Examining, said in a deposition that he had personally processed job references from congressmen, White House officials, and even the Civil Service commissioners themselves between the years 1969 and 1973.

Bureaucrats Triumphant

In the face of these scandals, the Ford Administration has not attempted to meddle with the civil service. The buddy system reigns again. The Roosevelt-Truman group, now sprinkled with a few Nixon-era entrants, has regained control of civil service appointments. Friendship, not merit, is the determining factor in who gets the job.

Gordon Freedman, who has worked in the House Manpower and Civil Service subcommittee for a year, believes that the real subverters of the civil service concept are the civil servants themselves. "Sure, some politicians get jobs for their friends," he says. "But you could have put all the Nixon referral people on the Sequoia and it would still float. But if you put all the people involved in the buddy system on the carrier *Enterprise*, it would sink."

Freedman says the public has no real protection from the growing force of the bureaucracy itself: "Agencies in general, to protect their turf, develop their own language. They snow politicians. Many more personnel come in through the buddy system than through political pull.

"Face it," he says, "bureaucrats can work this system any way they want to. And there's no coherent group you're talking about. They don't socialize together. It's just common practice.

"Sure, it's bad when Nixon deals in political purity, but some of the Civil Service Commission attacks on the White House were so dishonest and self-righteous that they were almost as bad as the White House itself."

If you still want a government job, so much the better. There never was a greater need for dedicated, hard-working public servants. But the situation in Washington has become so muddy that only one certain prediction can be made about the future of the civil service. If President Jimmy Carter (or President Gerald Ford, for that matter) ever tries to clean up the rats' nest of back-scratching, time-wasting, and flim-flam that has developed in many of our federal agencies, he's certain to be denounced by career civil servants, in quite indignant tones, for political subversion of the "merit system." ■

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Tidbits and Outrages

Drunkards' Rights

Suppose you have an employee who habitually reports to work falling down drunk and remains in a sodden state throughout the day. Can you fire him? Not if you're in the federal government, according to this report by Joseph Young in *The Washington Star*:

"An arbitrator has decided that adverse action cannot be taken against federal workers with drinking problems if their agencies have not established programs to detect and treat alcoholism among their employees. The case involved a grade GS-9 Internal Revenue Service revenue officer in IRS's Manhattan office who was demoted to a GS-7 tax examiner job because of excessive drinking.

"The employe's union, the National Treasury Employes Union, did not disagree that he had a history of alcoholism. . . .Rather, the union contended that IRS itself was at fault. . . . The arbitrator recommended the demotion be set aside and the employe receive back pay for the resultant loss of earnings."

Thinking Like a West Virginia Lawyer

Ben Franklin of *The New York Times*, observing that the recent trial of Governor Arch Moore of West Virginia "offered insights into politics in this corruption-ridden state," wrote:

"One of them came in an impassioned closing statement to the jury yesterday by Stanley E. Preiser, Mr. Moore's lawyer, who gravely told the jurors:

" 'The biggest proof that his [extortion] didn't happen is everybody knows that if that man [Mr. Price] had really given $25,000 for a bank charter, he'd have got the bank charter.' "

Our Ingenious Postal Service

If you haven't felt like gnashing your teeth lately, we have just the thing for you in this report from *The Washington Star*:

"The financially hard-pressed U.S. Postal Service has a surprise source of revenue—it auctions off millions of parcels damaged by machines at its new, mechanized bulk mail centers.

"The House postal facilities subcommittee is asking the Postal Service just how much it gets from the sales and how the bid prices compare with the value of the merchandise. Sales in 13 postal auction centers around the country took in $1.4 million during fiscal 1975. . . .

"One subcommittee source said a firm that loses a big batch of parcels to damage could find its own merchandise being sold at cut-rate prices by a competitor who bought it at bargain auction rates."

Right from the Start

We are awarding the first prize in our Who Took Jimmy Carter Seriously First contest to James M. Perry, whose long story entitled "Don't Laugh at Jimmy Carter" was published in *The National Observer* on May 3, 1975. Second price goes to Don Winter, a former reporter for *The Atlanta Journal*, who brought us a similar article later that month. We had the foresight not to publish it.

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Can You Spot the Jimmy Carter Supporter?

The New York Times/Howard Harrison

Senator Henry M. Jackson talking to officials of Sydenham Hospital in Harlem yesterday as Dr. Malcolm Cohen, left, and nurse L. Smith, right, attended Ernest Foster, a post-operative patient.

A Capitol Idea

We recently complained that reporters hadn't read the Humphrey-Hawkins bill they mentioned so often in their accounts of the campaign. Well, Nicholas Von Hoffman did, and found:

"It tackles the problem of joblessness by mandating the the United States Employment Service change its name to the United States Full Employment Service. That ought to do the job; but if it doesn't, this bill creates a national network of things called 'local planning councils,' 'community public service works reservoirs,' and 'Job Guarantee Offices,' each with its own 'Job Guarantee Officer.' There is also a beast called the 'Standby Job Corps,' after which comes a 'National Institute for Full Employment.' Staff salaries and per-diem expenses for the consultants and advisors are spelled out in some detail, although nothing else is."

But even Von Hoffman didn't get it all right. Augustus Hawkins, the bill's co-sponsor, complained in a letter to *The Washington Post* that Von Hoffman had described an earlier version of the bill, not the one presently before Congress.

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The Bankers' Attack on Free Enterprise

by John F. Winslow

A little-noted tragedy of the 1960s was the merger wave which swept away a quarter of all major independent U. S. corporations. Liberals and conservatives were too distracted by other crusades to pay much attention to this internal attack on the free enterprise system. But in those heady days, the chief executive of one of the most prolific acquirers, Bangor Punta Corporation, predicted that if the trend continued, by the year 2000 only 200 major corporations would exist.

His prediction lost credibility with the onset of recession and a decline in the number of mergers and acquisitions in the early 1970s. But now, with corporate profits up sharply again, the rate of mergers is picking up slightly and is likely to accelerate in coming months. It seems only prudent to warn that if another wave like that of the 1960s develops, not even a semblance of a free enterprise system may remain.

The instigators of the new merger wave of the 1970s will be respectable bankers, not sleazy 1960s conglomerators on the order of Robert Vesco or James Ling. For it will be the banks, who, by lending money to big corporations for the purpose of acquiring little corporations, will make the acquisitions possible.

Things were different in the go-go world of the 1960s. Less than half the acquisitions in that decade were financed by cash borrowed from banks. Instead, the acquirers paid mainly with their own stock. Instigating a vicious circle, they inflated the market value of their stock by puffing their earnings reports with the profits of corporations recently acquired, and then induced shareholders of the target companies to take overvalued stock in the big acquiring company in exchange for their undervalued shares in the little company being swallowed. These deals went by the unlikely name "tender offers."

The go-go gimmickery is not working any longer. After so many casualties from the last bull market and its inflated growth stocks, the medium of exchange in today's "tender offers" is cash. And the cash is supplied pre-

John Winslow, former counsel to the House Committee on the Judiciary, Antitrust Subcommittee, is the author of Conglomerates Unlimited: The Failure of Regulation.

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dominantly by banks.

During the first quarter of 1976, acquisitions of major corporations involved assets of $2 billion—more than double the figure for the first quarter of last year. This year bank loans have financed a far greater proportion of acquisitions than during the peak of the acquisition frenzy seven years ago. A firm specializing in acquisitions, W. T. Grimm & Co., predicts a new "upturn in merger activity." And with the upturn, a greater role for banks is foreseen. That is because large investment institutions—whose large purchases of a stock usually cause it to rise—are prone to ignore medium-sized corporations (sales of $100 million to $400 million). The stocks of those companies are, then, low in comparison to their earnings. Being bargains, they are likely acquisition targets for big companies which can obtain loans to finance tender offers.

The irony of all this is that by lending money to others, the banks are able to foster what they are forbidden by law from doing themselves. The National Bank Act, passed in the 1930s, prohibited banks from using deposit funds to purchase corporate securities, on the theory that if they were permitted to buy stock, they would soon gain complete control of the nation's industry. The Act was a formal recognition of the danger of allowing large banks to dominate the country by using the savings of the public. In *Other People's Money and How the Bankers Use It*, published in 1912, Louis Brandeis described the power of J. P. Morgan and other bankers to dictate prices and to extort American industry by withholding vital rail services which their banks controlled. This was a nightmare, and it occasioned public outrage which led to passage of reform legislation. But today, the role of banks in choking free enterprise through finance of mergers—as nightmarish in its way as the exploits of Morgan—arouses scarcely a whimper.

Bankers indignantly deny that their role in the merger upturn means that they are engineering a new shakedown, one which could destroy another quarter of the remaining independent U. S. corporations. They say they are just in the business of making loans to credit-worthy customers and have no responsibility for how the money is used—so long as it is paid back with the specified interest.

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Similarly, acquisition financiers assert that the modern consolidators do not use power as blatantly as did the robber barons at the turn of the century. Modern concentrated economic power is certainly less visible. But the faceless officers of a large bank like Chase Manhattan would make J. P. Morgan himself appear dull-witted for all the opportunities he missed to make money and sow discord.

The direct cost to the public of conglomerate growth is substantial, since the multi-billion-dollar acquisition financing costs are ultimately paid by consumers. How else is the acquirer to repay the banks other than by charging more for the products and services of the combined companies? The indirect cost of acquistions may be far more important. When a small company dies, the dreams of its employees go with it. Breathing room for noble failures and extravagant successes is lost. The economy, considered in its broadest sense, is diminished by the loss of each viable, independent enterprise.

As did J. P. Morgan, the acquiring corporations assert that the expense to the public is justified. Their concentrated control of purchased assets results in "economies of scale," they say, and yields greater innovation and productivity.

Why Big is Bad

As for innovation, overwhelming evidence points to the opposite conclusion. "The increasing concentration of products into larger and fewer companies," *Business Week* reported last February, has resulted in a "breakdown of U. S. innovation. Big company bureaucracy. . . discourages new thinking and new ventures." *Business Week* only observes a truism as old as the industrial age. In 1912 Brandeis commented that industrial concentration financed by banks "results in arrest of development more serious even than the direct burden imposed through extortionate prices." A recent Justice Department study noted that "high concentration, huge size and substantial market power are not prerequisites for research and innovation." The study concluded: "The effect of bigness and its vested interest in the status quo is stultifying."

As for productivity, "Acquired companies operated less efficiently after acquisition," according to the House Judiciary Committee staff, which investigated the merger wave of the '60s. Those companies, it found, have experienced declining profitability under the managements which boasted upon takeover that their purpose was to infuse management strength. That information was secured only by subpoena (or threat of it), for the performances of acquired companies is the acquirers' most guarded secret.

The decline in profitability should come as no surprise. Exactly contrary to their vaunted claim, the largest acquirers *take* rather than give financial strength. A prime consideration of International Telephone & Telegraph, for example, in plotting its acquisitions during the 1960s was the cash or financial resources which the target company could provide ITT.

The lessons of the 1960s have not been lost on the corporations. "For all the renewed interest in acquisitions," *The Wall Street Journal* reported in April, "companies appear far more selective than in the 1960s" and are no longer "buying for its own sake." Perhaps, then, efficiency and productivity considerations will figure more in the renewed merger trend. But whether they will for long may well depend on rewards to banks, which do stand to benefit from buying-for-its-own sake.

Irving Trust Company, for one, perceived the quick profitability of acquisition financing late last year when it allegedly perused confidential data on its own banking customers and found that a prime customer of 18 years, Microdot, Inc.—on *Fortune*'s list of the top five companies in sales

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and profit growth for 1975—possessed $12.5 million dollars in cash. That amount was almost half the total needed to buy 51 per cent of Microdot's outstanding stock. In a suit filed in federal court last January, Microdot alleged that the bank realized that a borrower could obtain control with a bank loan and repay almost half the loan with cash obtained from the company being acquired. The borrower's purchase of the corporation would be made possible largely with the money waiting for it in the corporate till.

Corporate Cannibalism

Microdot futher alleges that from the information gained through its trust relationship, Irving Trust attempted to negotiate a loan to an acquirer on terms very favorable to the bank. In any event, on December 2, 1975, General Cable Corporation announced its offer to purchase all Microdot stock at a price slightly above the low market price. Its means of payment would be a loan from a consortium of banks headed by Irving Trust. With the information on Microdot's rich cash reserves and profitability, the banks could afford to grant the loan even without security. And General Cable could afford to pay the bank a generous premium for it.

All parties were enthusiastic except Microdot. It called the plot "cannibalism." After acquisition, General Cable would add Microdot's revenues to its own. The target company claimed it was being swallowed by a moribund parasite that sought to disguise dismal performance by robbing an innovative, prosperous concern of its independence and ability to contribute to the economy.

Microdot fended off General Cable's attack only by offering itself in a "friendly" merger to Northwest Industries, which also is borrowing from banks to pay a slightly higher acquisition price. Microdot is sorry to lose its independence, it says, but happy and relieved that its acquirer is Northwest instead of General Cable. (Microdot's reasons for feeling relieved are not altogether clear. Northwest began its acquisition career by purchasing Chicago & Northwestern Railway, stripping it of its multimillion dollar assets and then using those assets—together with bank loans—to purchase other corporations.)

Microdot's managers assert that the freedom of a bank to use confidential information secured from profitable customers to plot takeovers will prove so lucrative to banks that the most successful growth companies will eventually become subsidiaries of conglomerate acquirers. If those enterprising companies are not able to resist the bank-financed raids of acquirers, Microdot's managers assert, "There will be no way for American stockholders to realize the potential these growth companies represent. Then there will be no future IBM, no Xerox, no Polaroid. They will be choked off and smothered as soon as they start to show their real growth potential."

The reserves of those target companies will not remain in their control for developing competitive production efficiency—the basic long-term counteraction to inflation. Instead, that capital will be used in part to pay the inflationary acquisition loans.

On the surface, Irving Trust's willingness to underwrite the takeover of its customer appears to be a threat mainly to the customer's managers and owners. The second largest bank on the government's "problem list" (and third largest in the nation), Chase Manhattan, affords a clearer example of the cost of bank-financed takeovers to the public at large.

As seen, the National Bank Act's prohibition against bank use of depositors' money to purchase corporate stock was meant to prevent domination of industry by banks. More specifically, the Act was intended to prevent a bank from securing the business of a competing bank's customers simply by gaining control of

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those customers and transferring their banking business to itself. The Act also tried to prevent a bank from profiteering at the expense of the public. Most important, the act meant to prevent a bank from gaining such control over the economy that it could dictate which companies patronize which, and thus in the long run, the prices consumers pay.

"Gentlemen's Agreement"

Chase Manhattan achieved all of these prohibited actions during the 1960s through the device of acquisition loans, according to a 1969 and 1970 House Judiciary Committee investigation of conglomerates. Committee investigators believed that Chase thwarted the purposes of the National Bank Act by entering into a "gentlemen's agreement" with Gulf & Western Industries to supply it easy (unsecured) acquisition loans.

First, the borrower promised to (and later did) transfer to the bank millions of dollars of the business of the purchased companies. The former banks of those companies were left out in the cold.

Second, Gulf & Western informed Chase Manhattan of the companies which it would acquire, or appear to attempt to acquire. The bank would have been able to purchase, through its trust department, shares of those companies before their stock predictably rose in value as a result of the real and feigned takeover attempts financed by the bank. The House investigators found no evidence, however, that the bank or its officers made use of this information.

Third, the House investigators alleged that Gulf & Western plotted its corporate acquisitions to secure sales to appreciative companies which in turn were beholden to the Gulf & Western syndicate for their sales. Those enterprises would then pass along to consumers prices inflated by a closed, noncompetitive market.

A few years ago the Federal Reserve Board became alarmed that bank financing of corporate takeovers even then was fueling inflation, depleting the nation's capital resources, especially in a time of tight money and putative capital shortage. In 1974 it sternly told bankers that they should lend for more productive purposes (such as for home building) and give lower priority to takeover loans. But although bank lending to finance acquisitions is greater now than then, the Federal Reserve does not reveal the extent. While frowning on the practices of acquisition financiers, it frowns also on the thought of incurring their displeasure. The Securities and Exchange Commission also possesses that information, in data scattered over thousands of forms, but does not take the trouble to compile it.

Spurred by their success with acquisition financing, many large banks became leaders in other areas of "go-go" financing. But those areas were riskier. Market manipulation did not always work as well as it had with acquisition loans. Lender and borrower were not always protected by Microdot's cash reserves waiting for the taking. Now legislators are trying to figure how to protect the overextended "problem list" banks from their managements. They might think about protection for the public as well. ■

Answers to May puzzle:

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Memo of the Month

FEDERAL ENERGY ADMINISTRATION

Subject: Decision-Making Styles Date: 2/26/75

From: Paul Mink, Program Manager, Training and Development

To: Regional Training Officers
and Central Office Administrative Officers

Enclosed is an interesting thumb-nail sketch of decision-making styles. It was used as part of a Civil Service Commission executive training course. We liked it so much that we decided to share it with you.

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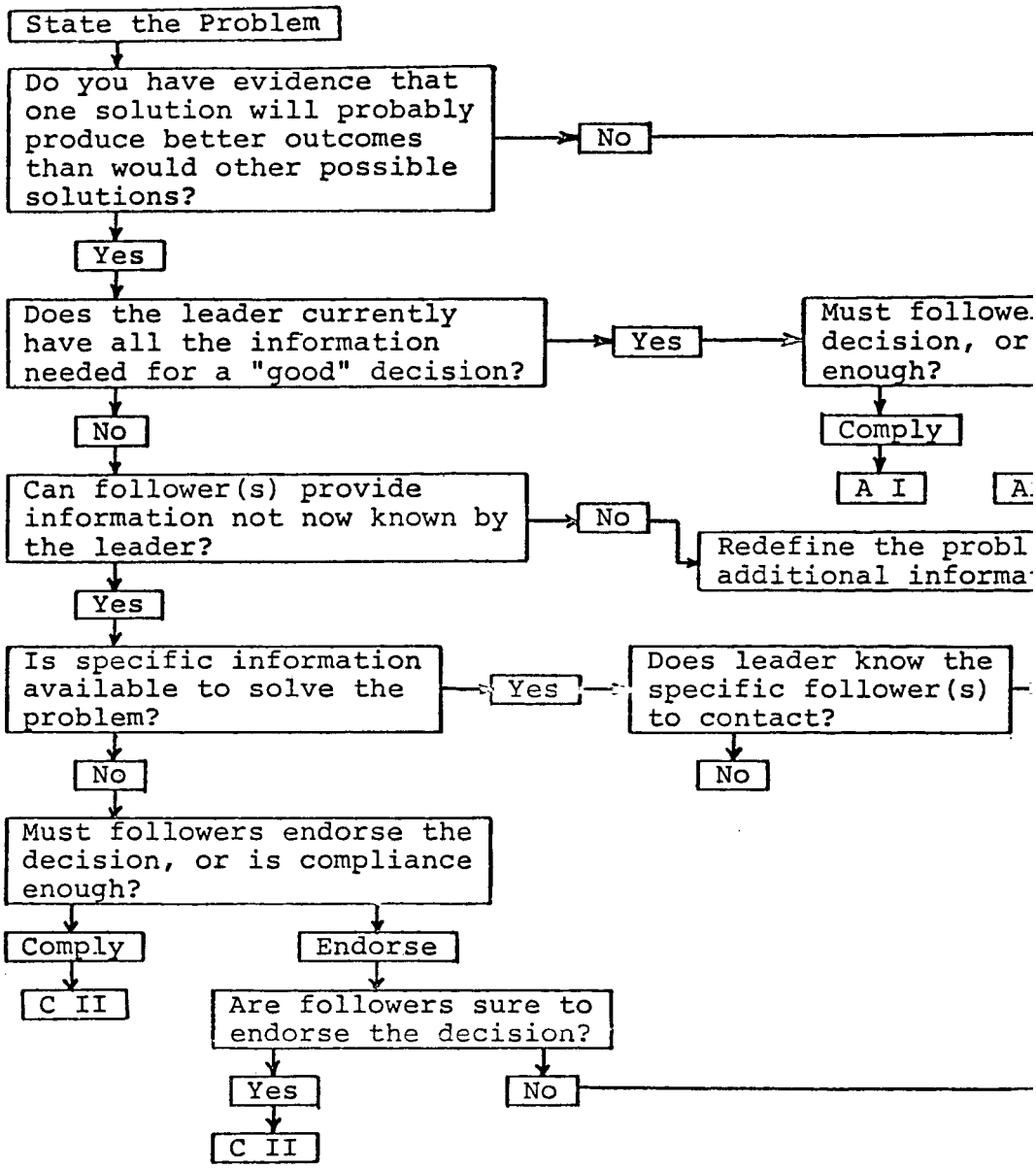

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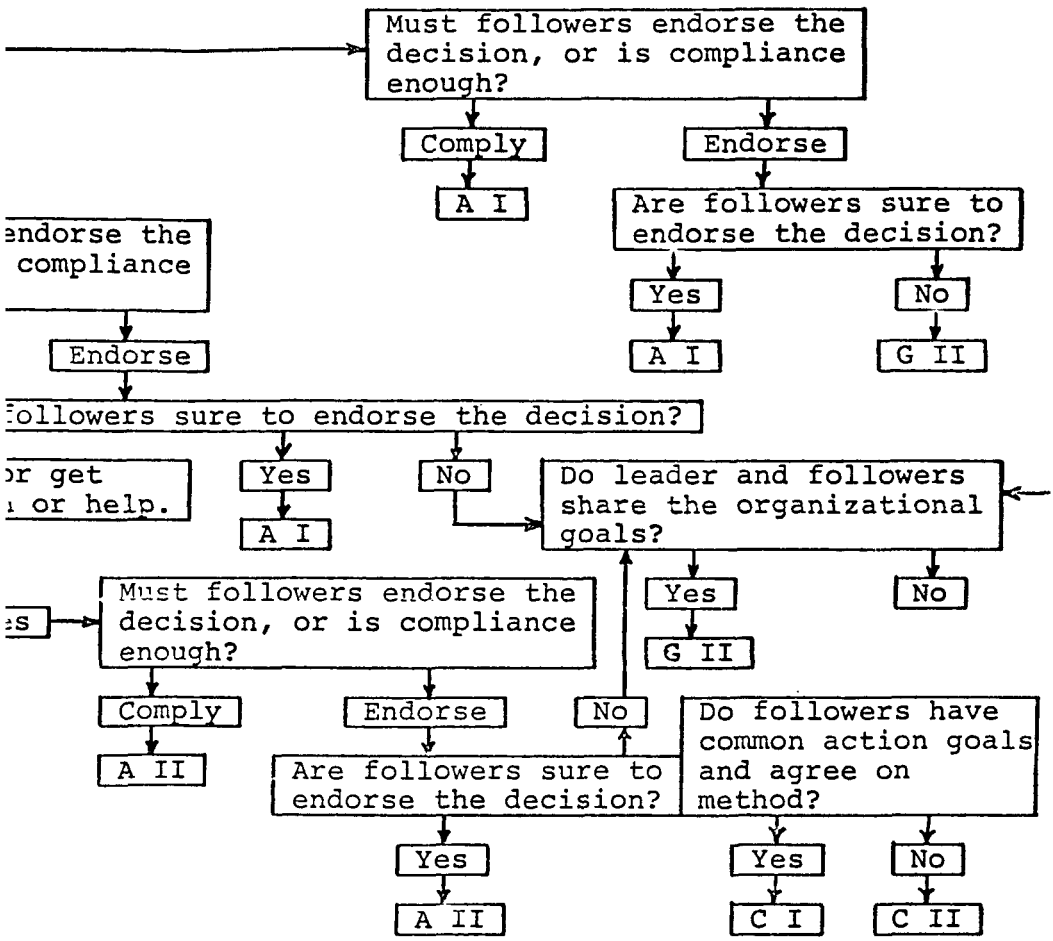

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How To End the Endless Delay at the FTC

by John A. Jenkins

The last time The Washington Monthly *took a look at the Federal Trade Commission, we saw signs that new leadership was turning this once-moribund regulator into a vigorous defender of consumers' rights. "The most exciting agency in Washington," we said in introducing Harrison Wellford's article, "How Ralph Nader, Tricia Nixon, the ABA and Jamie Whitten Helped Turn the FTC Around" (October 1972). We were wrong.*

There was a certain irony to the Geritol case. The Federal Trade Commission decided that Geritol's claims to cure "tired blood" and "iron deficiency anemia," delivered for many years on the Lawrence Welk Show and to other "tired blood" markets, weren't true. The FTC won the case: the ads were withdrawn from the air. But it took the agency 13 years.

Thirteen years. Bear in mind that Congress created the FTC in 1914 to give consumers *quick* relief from unfair or deceptive corporate practices. To make speedy intervention possible, Congress provided the FTC with streamlined trial procedures designed to render swift justice *outside* the federal court system. The whole point was to expedite the process in a separate agency, where legal procedures would not be so cumbersome. The FTC was to be prosecutor, judge and jury for a host of pocketbook crimes against consumers—from deceptive advertising to monopoly.

But Congress' vision has turned into the FTC's nightmare. Although the FTC is one of the few governmental agencies that can actually *save* consumers money, its cases are all too often sabotaged by needless delay.

John A. Jenkins is a Washington reporter who has covered the Federal Trade Commission.

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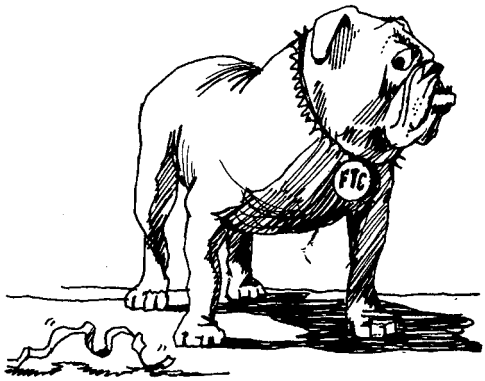

The delay problem persists despite efforts by its last two chairmen to "revitalize" the Commission, and their failure implies an important lesson for those who would make our administrative agencies more responsive to consumer needs. If the FTC's experience is a guide, regulatory reform won't work as long as the "reformed" agency itself is saddled with layer upon layer of administrative rules and regulations that govern its every action and make it nearly impossible to move any program off dead center. At the FTC, 62 years' worth of rules designed to preserve "due process" (and Congress is adding more all the time) have crippled the regulatory agency.

Lewis Engman, until recently the FTC's chairman, told me shortly before he left the Commission in January: "I'm very impatient about the problem of delay. . . . If I have to pick one huge, unsolved problem here, that would be the one."

As an administrative agency, the FTC is unique. It oversees all industries, not just one or two, as do other regulatory agencies, and its charter is simple: remove the imperfections of the market by restoring competition and preventing deceptive advertising. This should translate directly into dollars and cents savings for consumers, because competition should breed efficiency and lower prices, and truthful advertising helps people find the best value. To enforce its mandate, the Commission has been given a flexibly worded statute (the FTC Act) that allows it to move both locally and nationally against illegal business behavior. Lately, though, the agency has been concentrating more resources on antitrust cases that are national in scope.

The shift to an antitrust emphasis came two-and-a-half years ago, when Engman became chairman. He perceived the potential benefits for consumers from antitrust action against

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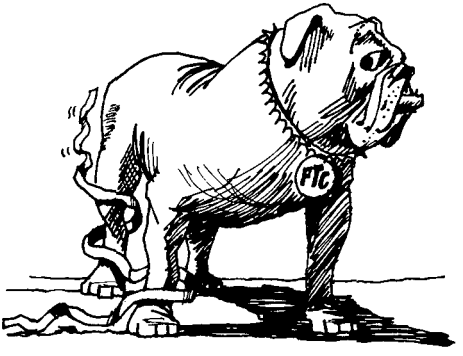
big industries widely believed to be fueling inflation. The list of the Commission's antitrust targets during Engman's tenure was formidable—Exxon and its seven sisters, Xerox, ITT, and the nation's four largest cereal makers, to name a few—but so far, these cases haven't saved the public a penny. The ambitious antitrust efforts have only served to highlight an FTC axiom: the bigger the case, the longer the delay. And justice delayed is justice denied.

The administrative process at the FTC is toothless, because procedural delays are built into the agency's trial framework. The Commission is both prosecutor and jury. When Commission lawyers file charges against an alleged corporate wrongdoer, the case first goes to an administrative law judge at the Commission. He handles the trial, but lacks important procedural tools—such as contempt power—that federal judges can use to maintain control of a proceeding. The law judge's decision can be appealed to the Commission, and almost always is, by one side or the other. The Commission then considers the case anew,



sometimes totally disregarding the law judge's decision in reaching its conclusions. This two-step process within the Commission's walls often consumes years.

Only after the Commission has ruled can the case enter the federal court system, where it would have been to begin with if the Justice Department (which has comparable statutory authority in the antitrust area) had filed the case. The Commission's own attorneys do not have the right to appeal a Commission decision to the federal courts, but defendants do, and they are able to forestall the ultimate day of reckoning—and continue the behavior under attack—for years more by making further appeals. This is what happened in the Geritol case.

The FTC *could* preempt corporate delaying tactics by using its existing power to get court orders immediately stopping illegal business behavior. But such injunctions and restraining orders are sought by the agency only in its most routine cases—precisely the ones in which they are least needed. If the Commission utilized its injunctive authority more vigorously, corporations would actually have a strong incentive to help *expedite* FTC proceedings; the sooner an administrative trial is completed, the sooner the federal court will lift its injunction.

In many cases, injunctions would defuse corporate delaying ploys. But this is only a partial solution. Injunctions don't make an unwieldy case more manageable. Moreover, courts won't grant them in the FTC's most important cases because those usually are aimed at making "new law"—they hinge on unresolved legal issues, or seek judicial expansion of the Commission's legal authority. It is in these major cases where delays are the longest.

One way to speed things up would be to remove FTC cases from the administrative forum. Since all the important FTC cases (in which defendants are found guilty) end up in federal court anyway, critics suggest they should begin there. "The FTC Act should be amended to require the litigation of all Commission cases in federal court," asserts Peter A. White, who until recently was chief counsel for the FTC in its massive, delay-fraught antitrust case against eight major oil companies accused of artificially inflating petroleum prices through policies of non-competition.

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"With the Commission as a plaintiff in district court, the enforcement powers so sorely lacking in administrative tribunals would be available immediately."

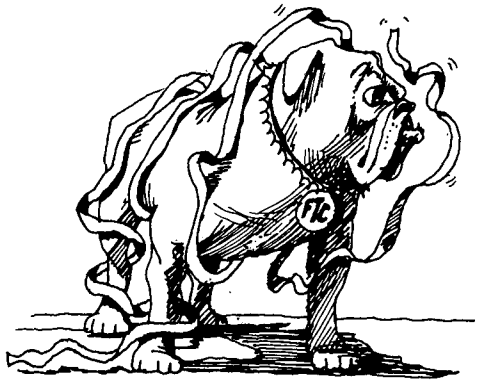
Alternatively, the Commission's cases could be channeled to a specialized Antitrust Court, like the existing Tax Court, where federal judges experienced in antitrust law would oversee litigation. Again, the expert judges of the Antitrust Court would have the power—which FTC judges lack—to effectively shepherd a complex antitrust case to trial, and decisions would be rendered quickly because their dockets wouldn't be crowded.

The importance of these procedural reform proposals (which we'll analyze in more detail later) is that they would significantly reduce the time needed to litigate an FTC case. That's because in federal court (either a district court or a new Antitrust Court) defendants can't tie up the agency for years in "collateral litigation" on procedural questions unrelated to the merits of a given case. This is exactly what happened in an important FTC antitrust investigation of major natural gas producers.

The six-year-old natural gas case is a memorial to the investigative inertia which develops when an agency lacks the power to enforce its subpoenas and to punish corporations that won't cooperate in investigations. The FTC investigation centers on whether eleven major oil companies under-reported their natural gas reserves in order to create the illusion of a natural gas shortage that would, in turn, prompt the government to deregulate gas prices as an incentive to exploration. Without question, deregulation would mean consumers would pay more. The FTC staff believes the companies purposely under-reported their reserves to the Federal Power Commission. If the companies conspired to create a phony natural gas shortage, it would be a serious antitrust violation.

Commission attorneys subpoenaed the companies' internal gas reserve data on November 24, 1971, a year after its investigation began. With millions of dollars riding on the case, seven of the eleven companies (Texaco, Standard of Indiana, Standard of California, Superior, Exxon, Shell, and Mobil) refused to comply. In most federal cases, a company's refusal to turn over information to a law enforcement agency could render it in contempt of court, liable to heavy fines. But not so at the FTC, because its administrative law judges don't have contempt authority.

"So the enforcement staff had to go to the [FTC] general counsel's office, which wrote a memo to the Commission asking it to enforce the subpoenas through Justice." says an



FTC attorney presently handling the case. "After that was done, the Commission had to write its own memo to Justice. All that took time. In fact, we didn't get to court until June 4, 1973," more than a year after the companies had formally told the FTC they intended to disobey the subpoenas. "We were powerless," says a former FTC attorney who now is on a Senate committee staff. "The companies just said, 'Well, we're not going to give you anything more.' "

Where is the natural gas case now? Nearly six years have passed, and the Commission still does not have the data it needs. Moreover, some of the information the subpoenas seek is already as much as eight years old.

The FTC's feeble subpoena author-

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ity is the weakest link in its tenuous chain of investigation and trial. Defense lawyers know they can exploit this weakness, gaining a competitive advantage by forcing the agency into court—or threatening to do so—at the slightest provocation. It isn't surprising, then, that the American Bar Association recently opposed a bill imposing severe penalities on corporations that tie up FTC proceedings by challenging subpoenas in federal court.

Fed up with corporate efforts to use due process as a stalling tactic, Engman's chief trustbuster, James T. Halverson, attacked the private bar in a 1973 speech. Halverson claimed the use of "intentionally dilatory tactics" by defense lawyers in FTC trials was widespread, and said the obstructive efforts were damaging the FTC's law enforcement efforts and breeding cynicism and frustration among trial attorneys.

Halverson catalogued the "ingenious" steps used by defense attorneys to delay FTC cases: broken promises to voluntarily comply with subpoenas; motions to quash subpoenas based on boilerplate objections that the Commission has already repeatedly rejected; unnecessary or repeated requests for extensions of deadlines for subpoena compliance; and requests for issuance of subpoenas to third parties who, in turn, can be expected to tie up the matter in federal court.

This vulnerability to dilatory tactics has a shattering effect on the morale of FTC attorneys, as a 1974 FTC internal memorandum suggests: "The [defense] motion to quash [an FTC subpoena], as things stand now, is a dagger in the heart of any investigation. Once filed, the forward momentum of the investigation evaporates. . The trial attorneys and economists assigned to the matter become demoralized or disinterested and drift off to other assignments or other employment while the enforcement process slowly works its way. When the matter is ultimately resolved in the Commission's favor, and the documents arrive, the staff originally assigned to the matter is often either gone, immersed in other projects, or no longer as interested in the investigation as it once was. It is impossible to recapture the degree of interest which existed in the early stages of the investigation. In short, the subpoena enforcement procedure fol-

lowed by the Commission has seriously undermined the effectiveness of the Commission."

The natural gas case demonstrates what the memo suggests. Four agency attorneys once worked full time on the investigation. As delays mounted, they turned their attention elsewhere. Several quit the agency. Today, one staff member (not one of the original four) works on the case in his spare time.

To see the ultimate absurdity of the corporation's waiting game, consider the FTC's "cereal case." In 1967, Commission attorneys began investigating the nation's four largest ready-to-eat cereal makers for evidence of antitrust violations. In 1972, after a five-year investigation, the Commission filed a landmark antitrust complaint testing a novel legal theory—that the four companies shared illegal monopoly power by using big advertising budgets as a barrier to entry in their industry.

With the filing of the complaint, defense attorneys moved quickly to tie the agency in procedural knots by filing motion after motion—all of

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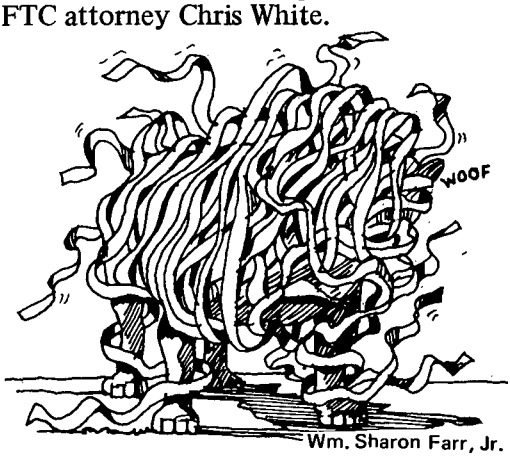
which had to be ruled on before the actual trial could begin. This points up another major weakness in FTC procedures: its administrative law judges lack clout, and as a result they aren't in control of the cases they are handling. "The Commission does not support them as judges, but rather as functionaries," complains a senior FTC staff attorney. The powerless law judges don't make gutsy decisons on which they might be reversed, and this caution inevitably leads to manipulative delays by the defense bar. An obvious solution to this problem lies with Congress—it could provide law judges with authority to hold dilatory defense counsel in contempt of court, so that they could quickly punish lawyers who persist in filing frivolous, delay-causing motions. Even without contempt power, the FTC's judges could ask the American Bar Association to institute disciplinary proceedings against defense attorneys engaging in obvious dilatory tactics. Today, such disciplinary referrals simply aren't made by the Commission's cautious bureaucrats. Finally, the Commission could sharply restrict the grounds on which a law judge's ruling on pre-trial motions could be appealed. This would cut down on the delay-causing appeals that presently burden the agency's internal trial process.

Dilatory tactics notwithstanding, the nine-year-old cereal case recently went to trial. Incredibly, it was just last year that lawyers for the cereal makers shamelessly used what might be the ultimate delaying tactic—they asked the Commission to dismiss the entire case for lack of a speedy trial!

"Cereal" is one of two shared monopoly cases lodged by the FTC. The other is the petroleum complaint filed under the Engman regime. Both are tremendously complex cases for an agency with such a small antitrust budget ($18 million this year, $23 million next year). The oil industry case, pitting 18 FTC attorneys against 200 high-paid industry lawyers, alone will cost the agency $6 million next year.

That case was filed at the height of the 1973 gasoline shortage amid much fanfare, but now it languishes. In fact, last year FTC attorneys trying the case screamed for help, claiming the case was *too complex to ever bring to trial unless the Commission totally rewrote its own procedural rules for handling it.* The Commission complied, and the case seemed to get moving again—until the administrative law judge assigned to it suggested last October that the massive antitrust proceeding be scuttled. Though the case was relatively "young"—only two years old—Judge Alvin L. Berman proposed that the Commission instead launch a new investigation of the energy crisis. Berman argued that international economic changes and the probablility of a new national energy policy made the case *irrelevant.* He may as well have said *delay* made the case irrelevant. In fact, if it ever does get to trial, the oil case is likely to far surpass Geritol in the amount of time and money it swallows. "It's like watching a snail," says FTC attorney Chris White.



Wm. Sharon Farr, Jr.

The list of administrative fiascos goes on: Five years ago, the Commission charged that Coca-Cola, Pepsi-Cola, and five other major soft-drink makers illegally restricted their bottlers from selling outside of designated geographical areas. By adopting this practice, the FTC said, the companies kept a cut-rate seller of, say, Coke from entering a new terri-

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tory to sell Coke at lower prices. Consumers were the big loser, said the agency, because this lack of competition forced them to pay higher-than-normal prices. The bottlers fiercely resisted this legal challenge and sought help in Congress. Five years after it was filed, the administrative law judge finally decided the case—against the FTC! Of course, the staff has appealed, so add another year or two for the Commission to decide the case, and add several more if the case is appealed to the federal courts.

Agency attorneys familiar with the FTC's internal administrative malaise say the Commission itself is to blame for much of the delay, and that Commission-inspired delays are the least excusable of all. When the Commission is deciding a case on appeal from a law judge's decision, for example, it is presented with a complete trial record and with issue-refining briefs from both FTC attorneys and opposing defense lawyers. The Commission expects its law judges to write their opinions within 60 to 90 days, yet Commissioners—who aren't pressured to come up with quick verdicts—often take a year or more to write their decisions. The solution to this problem is quite simple: the Commission must set deadlines for itself and meet them.

Litigated to Death

Often the delay of an FTC case seems tragic because of the case's public importance. Sometimes, however, the delay needlessly extends trivial cases that never should have been brought to begin with:

Against Wonder Bread. After two years of litigation, the Commission finally decided it wasn't unfair to advertise that Wonder "Helps build strong bodies 12 ways."

Against Hi-C. Commission attorneys said the drink didn't contain enough vitamin C. "You want vitamin C? We'll give you vitamin C," answered its makers. Case dismissed.

Against Dry Ban. The hapless agency took six years to decide whether a Dry Ban deodorant commercial—which had long since disappeared from the airwaves—illegally implied that the product was dry "by some absolute [legal] standard." Last April, after it had been litigated to death, the Commission decided the case had been tried on the wrong "legal theory"—a polite way of saying it should never have been filed—and dismissed it. Commented then-Commissioner Mayo J. Thompson: "Surely we can find more important work for our legal staff than litigating the question of whether somebody's underarm deodorant is 'dry' in the 'non-liquid' sense or in the 'non-oily' sense. I would. . . direct our lawyers to get on with the serious business of stopping practices that are artificially inflating the prices and/or debasing the quality of the goods and services bought by our 200 million American consumers."

The Dry Ban decision may have helped the Commission move in that direction. Buried deep in its opinion was a section indicating the Commission would dismiss cases in the future where an advertisement's "economic harm" to consumers has been negligible and no health or safety considerations exist. Because the Commission must rule whether a case will be filed in the first place, this decision could signal a new FTC effort to select more cases with an immediate pocketbook impact on consumers.

Even so, the Dry Ban doctrine calling for "better" cases is only symptomatic medicine—a small Band-Aid for the FTC's Achilles heel. The FTC's major problem lies not in its case selection, but, as we have seen, in the very nature of its administrative process. It is slow. Its judges are powerless. And the five-member Commission has been loath to quicken its pace of justice.

Often, the solution to the problem of regulatory bureaucracy seems an intractable, ideological muddle. With the FTC, though, there are several steps that could be taken—both by the

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IF YOU'RE NOT AFRAID OF BEING RIGHT TOO SOON

Five years before the near-bankruptcy of New York, **The Washington Monthly**, the liberal magazine that questions liberal orthodoxy, began its attack on the swollen bureaucracies with articles called "We're All Working for the Penn Central" and "America the Featherbedded." We then questioned the high salaries and pensions enjoyed by civil servants and warned of the growing power of public employees' unions.

The Washington Monthly has been ahead of its time in many other ways. It was the first magazine to reveal the political contributions of the dairy lobby, and in an article that won two of journalism's most distinguished awards, the first to tell of the Army's spying on civilian politics.

It was the first to reveal the Nixon impoundments, the first to report why Congress didn't investigate Watergate before the election, and in so doing, became the first monthly magazine to do original reporting about Watergate. In an article that won yet another award, it told "Why the White House Press Didn't Get the Watergate Story."

Our article on the dangers of nuclear hijacking was a year ahead of **The New Yorker**'s. Our case against social security was made two years before **Harper's**. And two years before Arthur Schlesinger, Jr.'s *The Imperial Presidency*, we published "The Prince and His Courtiers at the White House, the Kremlin, and the Reichschancellery."

Time says **The Washington Monthly** is "must reading." **The New York Times** says it's "indispensable." And **The Washington Post** says it "does its specialty—government and politics—better than any other magazine around." If you aren't afraid of being right too soon, give it a try.

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Commission and by Congress—to speed cases along for the consumers' benefit.

Some Modest Proposals

The Commission already has the power to appoint an administrative law judge or create an office whose sole function would be to rule on corporate motions to quash investigative subpoenas. As things stand now, the overworked Commission itself must rule on each motion, and this months-long process could be shortened considerably by delegating the task. Moreover, the Commission should aggressively use its injunctive power to get court orders stopping illegal corporate behavior. Injunctions are a powerful litigating weapon and an incentive to quick resolution of FTC cases. Defense counsel and corporate presidents may scream bloody murder about "due process," but they should be permitted to sue the government for damages if they can prove the injunction was truly unwarranted.

The FTC has never sought the other tools it needs to be effective—contempt power, the ability to enforce subpoenas without going into court, and the authority to halt pretrial proceedings before they reach the Rip Van Winkle stage. The Commission should be able to deprive defendants of all rights of delay during the FTC decision-making process. The defendants' countervailing protection should be the right to a stay of a *final* FTC order, pending appeal to a higher court. The agency should ask Congress for these powers now.

Still, the question lingers: Are changes in the administrative process sufficient to awaken the somnolent FTC? If they are not—and many critics suggest this is the case—then Congress must make a radical change in the FTC's trial procedures by forcing the agency to shed its adjudicative role. FTC complaints could be filed in federal district courts, or in a specialized Antitrust Court. In either case, trial time likely would be significantly reduced, and the public would benefit from speedier resolution of cases having a dollars-and-cents impact.

If an Antitrust Court were created, Congress could provide for direct appeal of cases to the Supreme Court, further reducing adjudicative delays. If the High Court chose not to hear an appeal, the decision of the expert Antitrust Court judge would stand. By making the FTC a purely prosecutorial agency—like the Justice Department—with court enforcement of its subpoenas, Congress would help to unchain our existing consumer watchdog.

The goal of our proposal for major reform is simple enough: a reduction in the stages of litigation necessary to reach a final decision about whether a company's actions are harming the public. At present, there are four time-consuming layers of decision: before an administrative law judge, before the full Commission, before the Circuit Court of Appeals, and before the Supreme Court. We'd like to reduce that to two layers: with the FTC prosecutors arguing their cases before the federal district court or new Antitrust Court, and appeal possible only to the Supreme Court. We think it would save time, money, and the self-respect of those who work for the FTC and the private lawyers who try to waste the Commission's time with procedural delays.

Lewis Engman left the FTC after two-and-a-half years to run for the Senate, where he hoped he could make a *real* contribution to consumer protection. If he makes it, he might think about introducing the legislation needed to make these reforms. He might also contemplate the bureaucratic lesson of the FTC. It says something about our government that an agency which was intended to replace the time-consuming decision process of the court system ended up duplicating it—adding a new layer of bureaucracy which created work for thousands of high-paid lawyers but gave the taxpayers nothing but trouble for their money. ■

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Wheelchair Justice

by Tom Bethell

I'm sure you heard about our subway system, the first few miles of which opened in Washington not long ago. Sorry, better change that to *your* subway system; about half the money, one way or another, came from your pockets, if you happen to live out there in that great misty region of America lying beyond the metropolitan area of Washington. Well, it has proved to be a great success. There have been three times as many riders as anticipated. The seats are comfortable, the ride is smooth. Taxpayers, we salute you. You did your bit. And if you come to Washington for any reason, you too can ride your subway system. It's meant for everyone.

Not long after it opened I went down there to enjoy it myself. Nice! Sort of underground Eero Saarinen. Spacious, too. And it's air-conditioned—I mean the whole system, stations as well as trains. This was during that terrific heat wave in the middle of April, with the temperature in the 90s, and one went down the escalator at Farragut North (conveniently close to the great glass-cube office buildings on K Street filled with people who work in offices—it's hard to be more specific than that because what they actually do is something of a mystery to us all), and whoosh! there was this nice cool blast of air. (Your money has been well spent.)

When you are walking underground and you have to turn to the left or the right, you don't go round a *corner* (which someone could be hiding behind), you go around a curve. There are no corners in the D. C. Metro. Nor are there any graffiti. The

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walls are designed to be out of reach. The stations, when you get to them, are huge—600 feet long (two football fields).

The Phantom Station

Have you seen those illustrations of futuristic transportation terminals, circa 2100, with little people standing about in elegant groups amidst landscaped trees and so on? That's what it feels like down there. You feel important just being there. Money has been no object, apparently. When it's finished, Metro very likely will have cost $5 billion or more. (If it's more, we'll be sure to get back to you. . . .) Subway police were patrolling the platform when I got there. They wore brown military-style jackets, peaked caps, Sam Browne belts, walkie-talkies, revolvers, truncheons, and microphones in their lapels. So far there have been no muggings in the Metro.

A chummy lunch bunch was returning from the smart eating places in the vicinity of K Street, most of them going back to Capitol Hill. (There is a stop within three blocks of the Capitol.) There was a soft whispering noise and circular, glass-encased lights winked on and off underfoot (to aid the deaf). The train had arrived at the platform with hardly any noise at all, just a hiss of brakes. Inside the seats are orange and yellow, made of some plastic-foam substance, and there is not so much as a squirt of spray paint to be seen anywhere. And people talk to one another—total strangers, apparently.

The train took off with acceleration of almost alarming proportions, passed underneath what must have been Lafayette Square, or thereabouts, in front of the White House, and stopped at the main stop in downtown Washington—our Piccadilly Circus. It is called "Metro Center." (A lobby of urban planners obviously demanded satisfaction at some point —and received it.) The next stop was. . . hang on a minute, we didn't stop at that station, Gallery Place by name. . . it just flashed by (can it be some special stop, open only to CIA employees, perhaps?); and within a few seconds there we were at Judiciary Square, which was laboriously pronounced with all five syllables by a disembodied voice either on the train or in the station. There was some further babble of the "have-a-nice-day" variety, and I surfaced in a parking lot, unsure whether I was facing north or south. But it was a lovely ride, nearly perfect, in fact, except for the strange Gallery Place experience.

The next day I came across an article in a back issue of the newspaper which solved the mystery of the phantom station. Gallery Place was closed, I read, because it didn't have elevators for handicapped people. A judge had decided that the station could not open to the general public until it was open for the handicapped, too. How odd, I thought. This seemed like judicial activism with a vengeance. I hunted around in the dailies for some column or editorial comment on the "Judge as Emperor," or some such, but there was no such comment. It seemed to have been accepted as perfectly normal that one of the six subway stations ready to open should have been ordered closed by a judge because there was not sufficient provision for people in wheelchairs.

All right, you can't be against handicapped people, I realize that,

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and I'm *not* against handicapped people. They are the one minority group that inspires not merely sympathy, but fear, guilt, terror and superstition. It's the one minority group you or I could join at a moment's notice. So don't get me wrong; I am not against handicapped people. But still. . . as I thought about it over the next few days, I realized that *some*thing about that judge's decision bothered me. I wanted to read more about the topic, but as it was clear that no one was touching it with a ten-foot pole, I realized with a heavy heart that I was going to have to do the necessary Investigative Journalism myself. (I prefer the Cogitative kind.)

Someone told me that there was something called the Occupational Safety and Health Administration, and they might know something about this matter. I looked them up in the phone book, and straight away I was in luck. The Occupational Safety and Health Administration Review Board was just around the corner, two minutes' walk away, in one of those big mystery office buildings on K Street. If you have tried calling some of these federal agencies for information, you will know that it is often quicker to walk there: if you don't know precisely who to call you're more than likely not going to make headway, and if you do know who to call, there's a pretty good chance he will be "away from his desk," or "in conference."

I went into the office, and there was a man pinning a chart to a wall. I tried to explain to him that I had heard there was some legislation recently passed affecting all construction done with federal money, requiring that buildings be accessible to handicapped people. No one knew anything about it (it wasn't their bailiwick), but one woman was very helpful and spent a patient ten minutes on the telephone calling a series of numbers, and eventually she triumphantly handed me a piece of paper.

The Lawsuits

The man to talk to was: Peter Lassen, Architectural and Transportation Barriers Compliance Board, Department of Health, Education and Welfare, 330 C Street, SW, Room 1010. That was *miles* away—too far to walk. Besides, I had already decided that the thing to do first was to talk to the Metro people. Go to WMATA—the Washington Metropolitan Area Transit Authority, which runs the D. C. bus and subway systems. They occupy a large building in the vicinity of Judiciary Square. This time I took the precaution of calling and was told: "You want to talk to one of our writers." Eventually I was put in touch with Marilyn McGinty in the "office of community services." She made an appointment for me to talk to Peter Ciano, one of Metro's many lawyers, who was handling the Gallery Place case.

When you go into the Metro building you are met with tight security because, I was told, they "count the money in the basement." I was given a visitor's badge to wear on my lapel by a girl who did not look up from the magazine she was reading. There was a sign on the counter that read: "The Occupants of this Building Participate in Paper Recycling and Energy Conservation Programs." I felt a lot better.

I was shown into "the library." Actually, law library would have been a better description. Metro is sued

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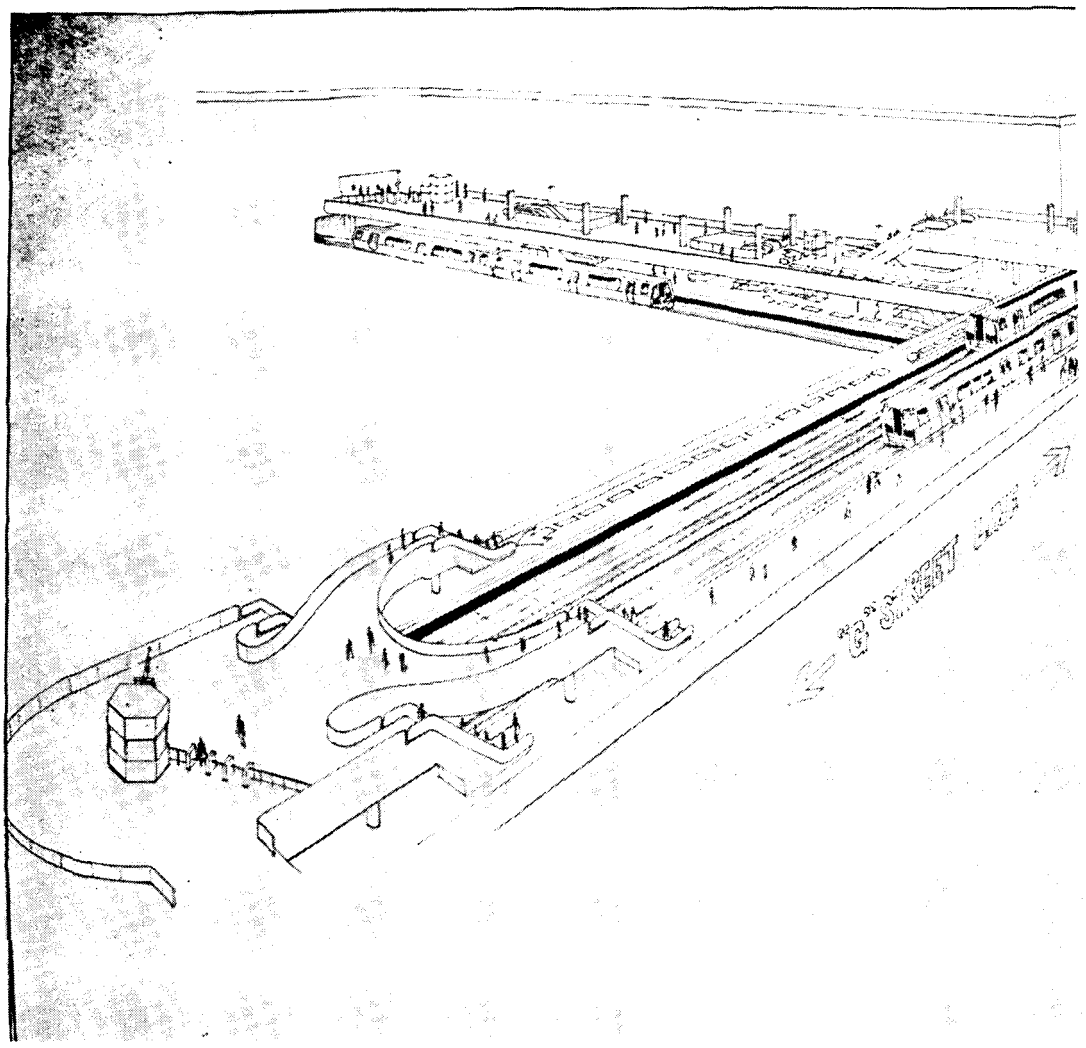

with such regularity that they have what appeared to be a complete law library to fend off the suits; but this one is only for preliminary research, apparently. For the really big cases—the serious legal work—Metro uses the General Accounting Office law library across the street. Ciano came in, and Marilyn McGinty was already there. Then we were joined by a Mrs. Colleen Payne, a legal assistant. This was turning out to be a fully fledged "conference." Ciano began by telling me about the law suits affecting Metro. He probably could have gone on all day. Practically every time they dig up a sidewalk, someone sues. Then if they comply with the suitor's wishes and try to dig a shaft somewhere else, someone else will sue. In this building Metro has 16 lawyers kept busy on these cases, but there are other Metro lawyers in other buildings. I didn't inquire where.

Here's what Ciano told me about the Gallery Place case: In 1968 a law was passed requiring that all buildings constructed in whole or in part with federal funds would have to "insure that physically handicapped persons will have ready access to, and use of, such buildings" (to use the wording of the Act). Then in 1970, shortly after Metro's groundbreaking ceremonies, this Act was altered to make it clear that the construction of Metro's subway stations would be subject to the requirements of the 1968 Act. "But

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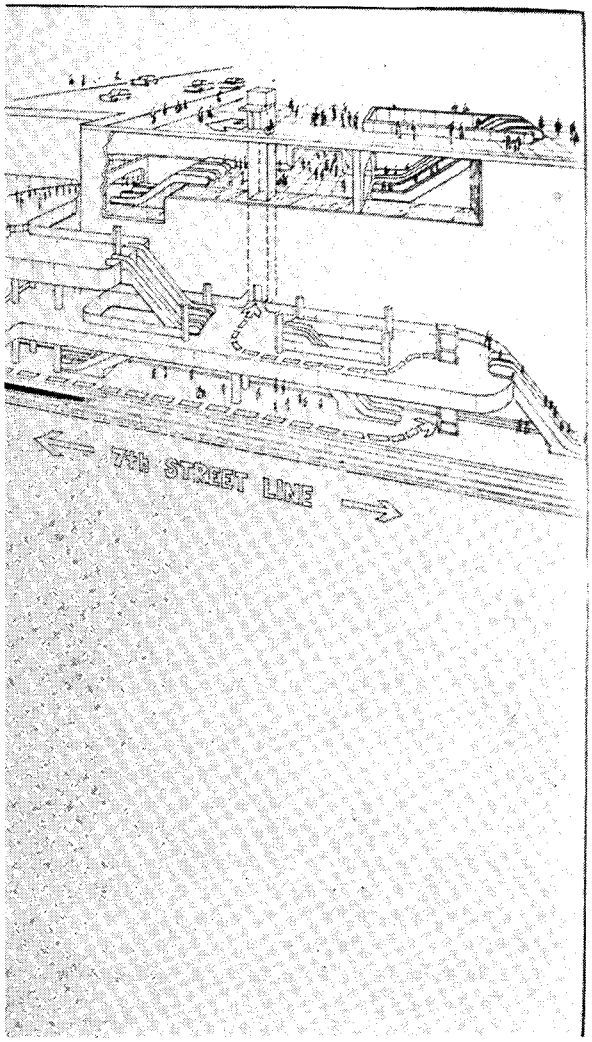

we weren't given any extra money," Ciano said. "We asked the Urban Mass Transit Administration to fund a grant to build inclinators that would fit into the escalator banks, but they refused to fund it." Then, in 1972, Metro was hit by a lawsuit filed by the Washington Urban League, the National Paraplegics Association, and Richard Heddinger, a private citizen who works as a statistician for the Labor Department and is confined to a wheelchair.

"He's been after us a long while," Mrs. Payne commented. "He comes to all our hearings." (Whenever there's a hearing in the District Court, I was told, quite a sizable wheelchair contingent shows up. You can hardly get by them in the aisles, apparently.)

Anyway, in June 1973 Judge William B. Jones, who has heard this case all the way through, and is currently the chief judge of the District Court for the District of Columbia—Judge John Sirica's successor, in other words—ordered Metro to make a progress report on elevator installation, having ruled that the Architectural Barriers Act did apply to the construction of Metro facilities. Right after that, less than two months later, Congress gave Metro $65 million extra to put elevators in all Metro stations.

"We figured we could comply," Ciano told me. "We told the judge that all the stations would have them by the time they were open."

As it happened, the situation at the Gallery Place station was complicated, because it was, in effect, a double station, with two lines crossing at different levels. And they were planned at different times. The upper-level, G Street line that is now running was designed first, before the 1969 initial groundbreaking. The 7th Street line, still under construction, was not designed until 1973, about the time of the judge's order. Therefore, Metro figured, they would put the elevator into the 7th Street, lower-level platform, because this would involve a minimum of alteration to the plans. The elevator would connect to the upper platform, too, but, as a result, handicapped people wouldn't be able to use Gallery Place until *both* the upper and lower levels were operating.

The question was, then, would the judge go along with this? If he did, it would mean that the upper level of Gallery Place station would open with the first phase of Metro in the spring of 1976, and would be accessible to everyone except those who had to use elevators. The necessary elevator was itself under construction, and would be ready for use when the lower-level line was running. According to Metro's latest estimates, this should be sometime in 1978. On the other hand, the judge could decide that such an

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arrangement discriminated against handicapped people and order the whole station to remain shut down until the elevator was operating. Judge Jones chose the latter course of action.

This struck me as being an oddly punitive judgment. Closing the station hurts one group, but it does not help the other. If, by not using Gallery Place, I could to the tiniest extent help people in wheelchairs, I would be more than happy to do so. But that is not possible. It is as though a misplaced attempt has been made to extend to the handicapped the "civil rights" principle, in which the judge could order the majority to halt its discrimination against the minority. But in this case, *no one* was discriminating against the handicapped—unless perhaps God was.

What made Judge Jones' decision seem so extreme was the fact that the elevator was, in point of fact, under construction, but was not yet ready, just as elevators were being included in every other station under construction in the Metro system. It was not as though Metro had simply defied the order to put in elevators and pocketed the $65 million. Of course, if the station were to be allowed open, there would be a manifest "inequality" between the handicapped and the non-handicapped until the elevator was in operation, and the judge seems to have determined that the best way to eliminate this inequality is to have, in effect, no station at all. In making this ruling, the judge also seems to have been guided by what may well be the great unwritten legal dictum of our time, to wit: when assessing the competing claims of two groups within a population, rule in favor of the minority.

This dictum may yet be put to the test at some point in the Metro case, because Metro's lawyers have taken note of an interesting point made in a deposition by Margaret Kendrick, a doctor at Georgetown University Medical School. Kendrick drew a distinction between handicapped people who can walk and those who can't. Although testifying on behalf of plaintiffs in the case, that is, the handicapped, she didn't seem to realize the dangerous legal ground she was getting into when she pointed out that many handicapped people can walk, but "some of them cannot walk a block without precipitating an attack." In other words, with Gallery Place now closed, the walking handicapped have to get off at the next station, and so they are being unfairly discriminated against, because if the station were open they *would* be able to use the escalators that are in place. In short, the legal argument here could boil down to: forget normal people (they are a majority and therefore have recourse elsewhere, they don't have to turn to the courts), but what about the Gallery Place closure discriminating against *another* group of handicapped? As Margaret Kendrick said, in her inimitable medical style: "A person in a wheelchair should be able to get a further distance with ease and comfort without getting too exhausted in comparison to an ambulator." One feels that the "ambulatory" handicapped are probably doomed in the courts, however, because they are, according to Dr. Kendrick, more numerous than those in wheelchairs.

Having said all this, there is no doubt, as some of the handicapped have already begun to suspect, that Metro is not particularly enthusiastic about people who are in wheelchairs

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using the subway system. No one at Metro is willing to go on record with this, but it is true, nevertheless. It just isn't a very suitable means of transportation for them, and in fact the handicapped don't use it very often. Metro became aware of this as a result of the experience of Bay Area Rapid Transit in San Francisco. BART is the only other subway system in America that was built in compliance with the Architectural Barriers Act; it has elevators in every station. The only problem with these elevators is that they are getting rusty from lack of use. In a recent brief filed in District Court (there are three bulging files in the Clerk's Office, each about three inches thick, testifying better than anything to the remarkable amount of time devoted to this subject by a variety of lawyers over the past four years), one reads:

"Defendant's Offered Testimony of William McCutcheon shows that in BART, even the one elevator per station installed for the handicapped is deteriorating from non-use."

D. C. Metro officials are keeping tabs on the number of times their own elevators are used, and the figures suggest that the same is likely to be true here. After an initial flurry of elevator activity in the first week or so, the figures dropped off rapidly, while the overall subway ridership increased. On April 26, for example, one month after the initial portion of the Metro was open, there was a total of three elevator trips, that is, less than one per station per day. This is in line with the figures provided by BART.

But what concerns Metro is that the handicapped, having won the first round, or several rounds, in court, are now pressing for further gains. They are seeking a clarification of the law which, if interpreted in their favor, will very likely mean that even more elevators will have to be added to a number of stations, including Gallery Place.

"The handicapped have brought up the legal issue of what constitutes

ready access," Ciano went on. "They say it means equal access. The handicapped should not have to travel more than 50 feet horizontally from the surface to the train, they say. Our position is that they have to go further, in some cases. Judge Jones now has it under submission. If he says ready access means equal access, he's going to close most of the system."

On my way back I decided to take a bus. If you have been to Washington you will know that if you find yourself in an unaccustomed part of town you need a good deal of esoteric knowledge to know which bus to get on. There is precious little in the way of identification, either on the buses, or at the bus stops. And if you approach the bus from behind, there is no way of distinguishing one bus from another. It would cost too much to put up identifying signs, I have been told. Another thing—it's often hard to get the buses to stop if the driver happens not to be feeling in a stopping mood. Subsequently, I have made these complaints to a number of friends and acquaintances in the Washington area, and they all seem to agree that the lack of route identification on the buses is pretty disgraceful. They have braille in the elevators, why not signs on the buses? A number of us, I know, would like to see some changes made. But then, perhaps we are too numerous. ■

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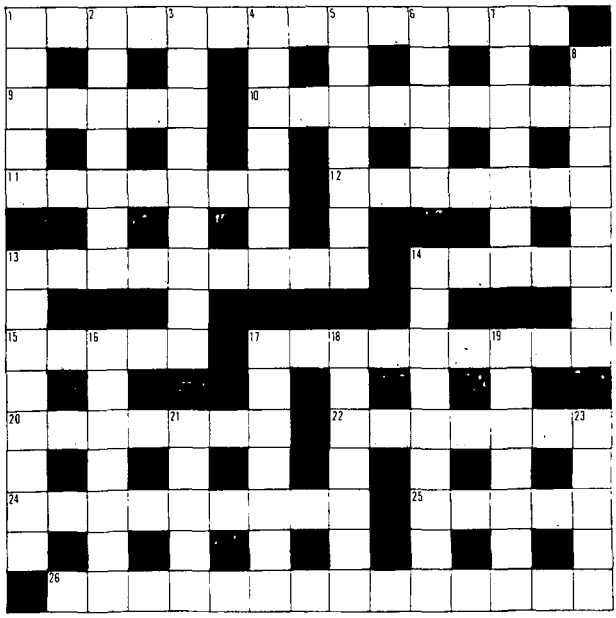
the political puzzle

by John Barclay



ACROSS

1. There are 538 of these which can be made to reveal closet. (9,5)
9. French spa is unsophisticated, backward. (5)
10. To beg for a part of Texas? (9)
11. Unprofessional aura met confusion. (7)
12. Re: piano moved outside. (4–3)
13. Way the Post advances? (7,2)
14. A little saint in dough gets doughy. (5)
15. Los Angeles in Parisian summer would make us happy. (5)
17. Jack's man puts Cuban hero in the list. (9)
20. Reagan: Panama must his issue be. (7)
22. A turn Al makes look easy. (7)
24. Direct thy write to FDR's first. (6–3)
25. Dance search. (5)
26. Intangible lumber in election year. (8,6)

DOWN

1. The last word comes up to the East to produce medical procedure. (5)
2. Let the air teem around sheikdom. (7)
3. A river, a waltz, and a dramatist. (9)
4. Porters make loud noises. (7)
5. Leading Republican, left of center in New York. (7)
6. Airport in Winnie-the-Pooh area. (5)
7. A sender arranged charms. (7)
8. One who sells out lager with server inside. (8)
13. Commentator distills from 100-striped arrangements. (8)
14. Ample sounds doubly ample. (9)
16. Everything around this shake-up brings insect home. (3,4)
17. Its root makes Italian dish. (7)
18. Study shape to bring in line. (7)
19. Turning no riots turning. (7)
21. Composition met to composition. (5)
23. Victoria, Louise, and Constance, for example. (5)

The numbers indicate the number of letters and words, e.g., (2,3) means a two-letter word followed by a three-word letter. Groups of letters, e.g., USA, are treated as one word. Answers to last month's puzzle are on page 38.

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political book notes

Public affairs books to be published in June.

Aiken: Senate Diary, January 1972-January 1975. George D. Aiken. Stephen Greene, $12.

The Alms Race: The Impact of American Voluntary Aid Abroad. Eugene Linden. Random House, $10. The idea is excellent—to evaluate CARE, America's foremost foreign aid charity, by visiting what it considers to be its best program. The country selected was Lesotho, a small, impoverished, independent black enclave within the Union of South Africa. Many of Linden's comments about the country's problems are insightful: "My biggest difficulty in seeing people in the Lesothan government was that many of them were not there, but in Washington, London, Brussels—anywhere but home." Equally convincing was Linden's indictment of CARE as a public relations-conscious, inept organization that rarely perceives the long-term implications of the programs it is funding. But the book is marred by Linden's somewhat naive, militantly anti-development bias that seems to indiscriminantly deplore all roads, schools, and clinics. Moreover, although Linden's writing has its engaging moments, too much of the book is devoted to long digressions on arcane aspects of African history and local politics.

Alleged Assassination Plots Involving Foreign Leaders. Clark Mollenhoff, forward; Frank Church, introduction. Norton, $10.

America Confronts a Revolutionary World: 1776-1976. William Appleman Williams. Morrow, $8.95.

The Best Years. Joseph C. Goulden. Atheneum, $15.

Bringing Down America. Larry Grathwohl, Frank Reagan. Arlington House, $7.95. An exceptionally literate and readable account of how Larry Grathwohl infiltrated the Weathermen in 1969-1970, and then testified against them. Unfortunately, however, the book is marred by an excess of zealotry and an almost certainly misplaced belief that the Weathermen still represent an on-going threat to American society. "After all," he writes, "Lenin, Castro, and Mao Tse-tung had to wait many years before history was ripe for their successful revolutions. So, too, the Weathermen are prepared to wait." So, too, Larry Grathwohl is keeping on the alert: "I am still working against Weathermen and other radical conspiracies," he writes at the end of the book.

California: A Bicentennial History. David Lavender. Norton, $8.95.

The Creative Balance: Government, Politics, and the Individual in America's Third Century. Elliot Richardson. Holt, Rinehart & Winston, $12.95.

Crime by Computer. Donn B. Parker. Scribner's, $8.95.

The Dark Side of Camelot. Nelson Thompson. Playboy, $1.75.

Diplomacy in a Crowded World: An American Foreign Policy. George W. Ball. Little, Brown, $12.95. It is well known that the author wants to be Secretary of State. This book suggests that he would be a good one. Here's a brief excerpt that is typical of the kind of insight Ball brings to bear on foreign policy:

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"...the policy drift which led us into the swamps and jungles in the first instance was encouraged by a dogmatic pragmatism fashionable in political science circles in the early 1960s. Expressed in slogan form, it taught that an American President should, so far as possible, 'preserve his options.' What this most often meant in practice was an ad hoc approach to the individual steps in an evolving situation. It discouraged efforts to examine long-range objectives rigorously or to measure dangers and costs over the long pull or to decide how far we should pursue a given course if success did not come as hoped. I am certain that President Kennedy never believed, in the fall of 1961, that cleaning the Viet Cong out of South Vietnam would be worth the deployment of American combat forces on the Asian mainland; in fact, when I told him that this was where I thought a limited intervention would inevitably lead, he replied with an explosive denial. Yet, to my knowledge, John F. Kennedy never faced or made the explicit decision that we would *not* commit such forces, nor did he define the outside limits of our effort. Options had to be preserved; it was the received wisdom.

"That it was a false wisdom has been repeatedly shown by experience; in this fast-paced modern age, time relentlessly destroys unexercised options. If a President fails or refuses to make a clear-cut decision on long-term policy, he will have less rather than more freedom to maneuver as events alter the facts and compel further action. That, in essence, was the story of Vietnam from the beginning. Successive administrations followed a Micawberish course, hoping that by abjuring long-range plans they could avoid irreversible decisions. Yet, because they failed to make the irreversible decision—or, in other words, to exercise the option to extricate America when it was easy—escape became increasingly costly.

"In 1954, while briefly assisting a French Prime Minister, I encountered a competing principle that seemed more valid. 'To govern is to choose,' M. Mendes-France used to say—or, in other words, it is the duty of a chief of government to exercise his options while he can, not seek to preserve them. During the middle 1960s I suggested to my colleagues that the aphorism might be a sound guiding rule for an American President. After all, when Mendes-France found his country saddled with an endless struggle in Vietnam, he did not raise the ante and hope for a better hand. He liquidated the war in ninety days."

What ever happened to the Civil Rights movement?

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The Futile System. John J. Rhodes, EPM Publications, $8.95. John Rhodes is a conservative Republican but don't let that scare you. His book is consistently interesting and his comments about his colleagues are frank and insightful. An example:

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willingly takes the heat for his colleagues. In return, he gets their support. . . .

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A Good Man: The Life of Sam J. Ervin. Dick Dabney. Houghton Mifflin, $12.50. A very good book about a very good man.

The Great American Mail-Fraud Trial. Kenneth Michael Robinson. Nash, $8.95.

"I Never Wanted to be *Vice*-President of *Anything*" An Investigative Biography of Nelson Rockefeller. Michael Kramer, Sam Roberts. Basic, $12.50. If you can bear another Rockefeller book, this is a solid effort by two able reporters.

In Our Time. Eric Hoffer. Harper & Row, $6.95.

The Inner-City Child. Frank Riessman. Harper & Row, $7.95.

Lies, Damn Lies, and Statistics: The Manipulation of Public Opinion in America. Michael Wheeler. Liveright, $9.95. An excerpt from this book appeared in the April issue of *The Washington Monthly*.

The Loyal Blacks. Ellen Gibson Wilson. Putnam's, $10.95.

Lyndon Johnson and the American Dream. Doris Kearns. Harper & Row, $12.50. Remember all the squabbling between publishers, editors, Ms. Kearns, and her husband, Richard Goodwin? Well, however untidy that might have been, the book that emerged is a very tidy job, indeed. Parts of it are dull reading, recalling its origins as a Ph.D. thesis, but mostly it is perceptive and engrossing.

On Watch: A Memoir. Elmo R. Zumwalt. Quadrangle/New York Times.

Patience and Fortitude: Fiorello La Guardia. William Manners. Harcourt Brace Jovanovich, $12.95.

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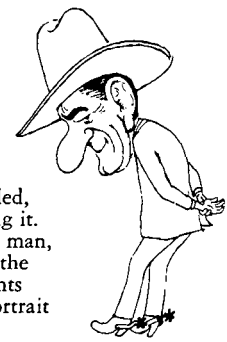
LBJ: An Irreverent Chronicle

By Booth Mooney

Former Assistant and Speechwriter to Lyndon Baines Johnson



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Sexpionage: The Exploitation of Sex by Soviet Intelligence. David Lewis. Harcourt Brace Jovanovich, $7.95.

Tax Politics: How They Make You Pay and What You Can Do About It. Robert Brandon, Jonathan Rowe, Thomas Stanton. Pantheon. One of the better Nader books. It's hard to keep taxes from being dull, but this book succeeds about as well as one can reasonably hope.

Three Perspectives on Ethnicity in America: Blacks, Chicanos, and Native Americans. Carlos E. Cortes, et al., eds. Putnam's, $12.95.

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To America with Love: Letters from the Underground. Anita and Abbie Hoffman. Stonehill, $9.95/$3.95. In 1973 Abbie Hoffman was arrested and charged with selling cocaine to a police undercover agent. Several months later he became a fugitive rather than face a possibly long prison term, and for the next year he and his wife, Anita, undertook a clandestine correspondence.

One impression these letters give is that the immaturity of our erstwhile radical leaders, disguised at the time because of the passionate response to the Vietnam War, is now clearly manifest in their personal lives. Perhaps that is why so many of them seem to have given up on reforming society and have become more interested in outlandish methods of reforming the psyche.

"I'm *such* an egomaniac I figure if I'm an egomaniac then it's a good quality!!" Hoffman writes. "How's that. Anyways, I told them in the New Land people will grow via gestalt expansion instead of linearly. People will go around getting acquainted by asking 'Who are you?' rather that 'What do you do?' "

Anita Hoffman replies: "As I write this it occurs to me that the psychosexual revolution may be the ultimate one, destined to complete itself only after imperialism is defeated."

The Unseeing Eye: The Myth of Television Power in National Politics. Thomas E. Patterson, Robert D. McClure. Putnam's, $7.95. The authors owe a considerable, unacknowledged, debt to Edward Jay Epstein, but their book is nevertheless well worth reading.

The Voice: Life at *The Village Voice*. Ellen Frankfort. Morrow, $8.95. The impression one gets from Ellen Frankfort's carelessly written and under-edited book is that *The Village Voice* is a newspaper crawling with egotistical writers who spend most of their time monitoring each others' paychecks, being offended when anyone cuts a word out of their copy, and trying to outdo one another in the radicalness of their cheek. Ellen Frankfort appears to have been one of the worst of the lot, perennially grumbling about why she never quite made it up the status ladder to the prized position of staff writer. But this account makes it clear why she didn't.

The Voices of Guns. Vin McLellan, Paul Avery. Putnam's, $12.95.

The War That Never Was. Bradley Earl Ayers. Bobbs-Merrill, $8.95.

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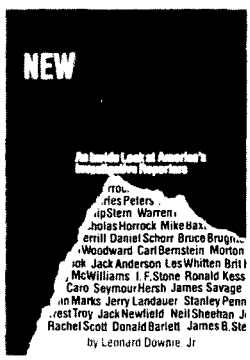

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